

# MONTANA LEGISLATIVE HISTORY

Chapter 583 1999

Bill H \_\_\_\_\_ S III

Original bill & history ✓ C

H. Committee on Taxation

Hearing Date(s) \_\_\_\_\_ C

3/3 ✓ C

\_\_\_\_\_ C

3/30 \_\_\_\_\_ C

Date Out 4/9 ✓ C

S. Committee on Taxation

Hearing Date(s) 1/29 ✓ C

\_\_\_\_\_ C

\_\_\_\_\_ C

\_\_\_\_\_ C

out 2/10 ✓

Free Conf. Comm. Minutes: 4/16/99 ✓ 8:00 am & 2:00

Did this bill originate in an interim committee? ✓ Yes \_\_\_\_\_ No

Committee Revenue Oversight Report NO

### LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/16 Transmitted to House  
Referred to Taxation  
Died in Standing Committee

SB 111 Introduced by Depratu

LC0379 Drafter: Martin

Exempt Intangible Personal Property from Property Taxation;...

By Request of Revenue Oversight Committee

|       |                                                       |    |    |
|-------|-------------------------------------------------------|----|----|
| 12/22 | Introduced                                            |    |    |
| 1/04  | 1st Reading                                           |    |    |
| 1/04  | Referred to Taxation                                  |    |    |
| 1/04  | Fiscal Note Requested                                 |    |    |
| 1/13  | Fiscal Note Received                                  |    |    |
| 1/20  | Fiscal Note Printed                                   |    |    |
| 1/29  | Hearing                                               |    |    |
| 2/10  | Committee Executive Action--Bill Passed as Amended    | 6  | 3  |
| 2/10  | Committee Report--Bill Passed as Amended              |    |    |
| 2/11  | Revised Fiscal Note Requested                         |    |    |
| 2/13  | Revised Fiscal Note Received                          |    |    |
| 2/15  | Revised Fiscal Note Printed                           |    |    |
| 2/15  | 2nd Reading Passed as Amended                         | 33 | 17 |
| 2/16  | 3rd Reading Passed                                    | 37 | 13 |
|       |                                                       |    |    |
|       | Transmitted to House                                  |    |    |
| 2/18  | Referred to Taxation                                  |    |    |
| 3/03  | Hearing                                               |    |    |
| 4/09  | Committee Executive Action--Bill Concurred as Amended | 16 | 4  |
| 4/09  | Committee Report--Bill Concurred as Amended           |    |    |
| 4/12  | 2nd Reading Concurred                                 | 72 | 27 |
| 4/13  | 3rd Reading Concurred                                 | 82 | 16 |
|       |                                                       |    |    |
|       | Returned to Senate with Amendments                    |    |    |
| 4/15  | 2nd Reading House Amendments Not Concurred            | 47 | 0  |
| 4/15  | Free Conference Committee Appointed                   |    |    |
| 4/16  | Two Hearings                                          |    |    |
| 4/19  | Free Conference Committee Report Received             |    |    |
| 4/19  | 2nd Reading Free Conference Committee Report Adopted  | 35 | 15 |
| 4/20  | 3rd Reading Free Conference Committee Report Adopted  | 35 | 15 |
|       |                                                       |    |    |
|       | House                                                 |    |    |
| 4/15  | Free Conference Committee Appointed                   |    |    |
| 4/19  | Free Conference Committee Report Received             |    |    |
| 4/20  | 2nd Reading Free Conference Committee Report Adopted  | 69 | 28 |
| 4/21  | 3rd Reading Free Conference Committee Report Adopted  | 76 | 24 |
|       |                                                       |    |    |
| 4/21  | Sent to Enrolling                                     |    |    |
| 4/26  | Returned from Enrolling                               |    |    |
| 4/26  | Signed by President                                   |    |    |
| 4/29  | Signed by Speaker                                     |    |    |
| 4/30  | Transmitted to Governor                               |    |    |
| 5/10  | Signed by Governor                                    |    |    |
| 5/10  | Chapter Number Assigned                               |    |    |
|       | Chapter Number 583                                    |    |    |
|       | Effective Date: 5/10/1999 - All Sections              |    |    |

## SENATE BILL NO. 111

INTRODUCED BY DEPRATU B

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING INTANGIBLE PERSONAL PROPERTY FROM PROPERTY TAXATION; AMENDING SECTIONS 15-1-101, 15-8-201, 15-8-405, 15-8-407, 15-23-101, 15-23-202, 15-23-303, AND 20-15-403, MCA; REPEALING SECTIONS 15-6-204 AND 15-8-403, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Intangible personal property exemption. (1) Intangible personal property is exempt from taxation.

(2) For the purposes of this section, intangible personal property includes but is not limited to:

- (a) money at interest, bonds, notes, claims, demands, and all other evidences of indebtedness, secured or unsecured, including notes, bonds, or certificates secured by mortgages;
- (b) brand names, trademarks, and trade names;
- (c) contracts and contract rights;
- (d) copyrights, patents, and trade secrets;
- (e) customer or patient lists;
- (f) franchises;
- (g) goodwill;
- (h) licenses and permits;
- (i) rights-of-way that are possessory only and not accompanied by title;
- (j) software, including application programs and custom programs, but not including basic operating systems fundamental and necessary to the functioning of a computer, machine, or other mechanical or electromechanical system; and
- (k) water rights and mineral rights.

(3) (a) Intangible personal property does not include zoning, location, view, geographic features, easements, covenants, proximity to raw materials or markets, condition of surrounding property, or other

1 characteristics or attributes of property.

2 (b) The presence of intangible personal property must be assumed in determining the highest and  
3 best use of taxable property, but the value of intangible personal property may not be included in the  
4 value of taxable property.

5  
6 **Section 2.** Section 15-1-101, MCA, is amended to read:

7 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in  
8 this section are used in connection with taxation, they are defined in the following manner:

9 (a) The term "agricultural" refers to:

10 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and  
11 vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for  
12 commercial purposes; and

13 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

14 (b) The term "assessed value" means the value of property as defined in 15-8-111.

15 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and  
16 the profit margin shown in national appraisal guides and manuals or the valuation schedules of the  
17 department.

18 (d) (i) The term "commercial", when used to describe property, means property used or owned  
19 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income,  
20 except property described in subsection (1)(d)(ii).

21 (ii) The following types of property are not commercial:

22 (A) agricultural lands;

23 (B) timberlands and forest lands;

24 (C) single-family residences and ancillary improvements and improvements necessary to the  
25 function of a bona fide farm, ranch, or stock operation;

26 (D) mobile homes and manufactured homes used exclusively as a residence except when held  
27 by a distributor or dealer as stock in trade;

28 (E) all property described in 15-6-135; and

29 (F) all property described in 15-6-136.

30 (e) The term "comparable property" means property that:

1 (i) has similar use, function, and utility;

2 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
3 factors; and

4 (iii) has the potential of a similar highest and best use.

5 ~~(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.~~

6 ~~(g)(f)~~ (i) "Department", except as provided in subsection ~~(1)(g)(iii)~~ (1)(f)(ii), means the department  
7 of revenue provided for in 2-15-1301.

8 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
9 2-15-2501.

10 ~~(h)(g)~~ The terms "gas" and "natural gas" are synonymous and mean gas as defined in  
11 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas  
12 or any other natural gas found in any coal formation.

13 ~~(h)(h)~~ The term "improvements" includes all buildings, structures, fences, and improvements  
14 situated upon, erected upon, or affixed to land. When the department determines that the permanency  
15 of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home,  
16 manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home,  
17 manufactured home, or housetrailer may be determined to be permanently located only when it is  
18 attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

19 ~~(h)(i)~~ The term "leasehold improvements" means improvements to mobile homes and mobile homes  
20 located on land owned by another person. This property is assessed under the appropriate classification,  
21 and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on  
22 leasehold improvements are a lien only on the leasehold improvements.

23 ~~(h)(j)~~ The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas,  
24 alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

25 ~~(h)(k)~~ The term "manufactured home" means a residential dwelling built in a factory in accordance  
26 with the United States department of housing and urban development code and the federal Manufactured  
27 Home Construction and Safety Standards. A manufactured home does not include a mobile home, as  
28 defined in 61-1-501 and in subsection ~~(1)(m)(i)~~ (1)(f)(ii) of this section, a housetrailer, as defined in 61-1-501, or  
29 a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety  
30 Standards went into effect on June 15, 1976.

1           ~~(m)~~(l) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or  
2           "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to  
3           another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to  
4           8 feet in width or 45 feet in length used as a principal residence.

5           ~~(m)~~(m) The term "personal property" includes everything that is the subject of ownership but that  
6           is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal  
7           property" as that term is described in [section 1].

8           ~~(n)~~(n) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
9           domestication to produce food or feathers.

10          ~~(o)~~(o) The term "property" includes ~~money, credits, bonds, stocks, franchises, and all other~~  
11          ~~matters and things, real, and tangible personal, and mixed, things~~ capable of private ownership. This  
12          definition may not be construed to authorize the taxation of the stocks of a company or corporation when  
13          the property of the company or corporation represented by the stocks is within the state and has been  
14          taxed.

15          ~~(p)~~(p) The term "real estate" includes:

16           (i) the possession of, claim to, ownership of, or right to the possession of land;

17           (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
18          and Title 15, chapter 23, part 8;

19           (iii) all timber belonging to individuals or corporations growing or being on the lands of the United  
20          States; and

21           (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

22          ~~(q)~~(q) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking,  
23          hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

24          ~~(r)~~(r) "Research and development firm" means an entity incorporated under the laws of this state  
25          or a foreign corporation authorized to do business in this state whose principal purpose is to engage in  
26          theoretical analysis, exploration, and experimentation and the extension of investigative findings and  
27          theories of a scientific and technical nature into practical application for experimental and demonstration  
28          purposes, including the experimental production and testing of models, devices, equipment, materials, and  
29          processes.

30          ~~(s)~~(s) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that

1 is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a  
2 permanent foundation. Inventory does not have to be located at the business location of a dealer or a  
3 distributor.

4 ~~(u)~~(t) The term "taxable value" means the percentage of market or assessed value as provided  
5 for in Title 15, chapter 6, part 1.

6 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
7 incorporated town, township, school district, irrigation district, or drainage district or a person, persons,  
8 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

9 (3) The term "state board" or "board" when used without other qualification means the state tax  
10 appeal board."

11  
12 **Section 3.** Section 15-8-201, MCA, is amended to read:

13 "15-8-201. **General assessment day.** (1) The department shall, between January 1 and the  
14 second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property  
15 subject to taxation in each county.

16 (2) The department shall assess property to:

17 (a) the person by whom it was owned or claimed or in whose possession or control it was at  
18 midnight of the preceding January 1; or

19 (b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met  
20 and the transfer certificate has been received and processed prior to determining the taxes that are due  
21 as provided in 15-10-305(2).

22 (3) The department shall also ascertain and assess all mobile homes arriving in the county after  
23 midnight of the preceding January 1.

24 (4) A mistake in the name of the owner or supposed owner of real property does not invalidate  
25 the assessment.

26 (5) The procedure provided by this section does not apply to:

27 (a) motor vehicles;

28 (b) motor homes, travel trailers, and campers;

29 (c) watercraft;

30 (d) livestock;

1 (e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for  
2 personal property taxes on the date that application is made for a special mobile equipment plate;

3 (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

4 (g) property subject to the provisions of 15-16-203.

5 ~~(6) Credits must be assessed as provided in 15-1-101(1)(f)."~~

6

7 Section 4. Section 15-8-405, MCA, is amended to read:

8 "15-8-405. Street railroads, bridges, and ferries. Street railroads, and bridges, and ferries and  
9 their franchises owned by persons or corporations must be listed and assessed in the county, town, or  
10 district where ~~such~~ the property or any portion thereof of the property is located, ~~and the~~ The track of  
11 the railroad and the bridge are personal property."

12

13 Section 5. Section 15-8-407, MCA, is amended to read:

14 "15-8-407. Railroads and other franchises. ~~(1)~~ The franchise, roadway, roadbed, rails, rolling  
15 stock, and all other operating property of ~~all railroads~~ a railroad operated in more than one county or more  
16 than one state must be assessed by the department of revenue as ~~hereinafter~~ provided in Title 15, chapter  
17 23, part 2.

18 ~~(2) Other franchises, if granted by the authorities of a county or city, must be assessed in the~~  
19 ~~county or city within which they were granted; if granted by any other authority, they must be assessed~~  
20 ~~in the county in which the corporations, firms, or persons owning or holding them have their principal~~  
21 ~~place of business."~~

22

23 Section 6. Section 15-23-101, MCA, is amended to read:

24 "15-23-101. Properties centrally assessed. The department of revenue shall centrally assess each  
25 year:

26 (1) the franchise, roadway, roadbeds, rails, rolling stock, and all other operating property of  
27 railroads and railroad car companies operating in more than one county in the state or more than one  
28 state;

29 (2) property owned by a corporation or other person operating a single and continuous property  
30 operated in more than one county or more than one state, including telegraph, telephone, microwave,

1 electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties  
2 and including, if congress passes legislation that allows the state to tax property owned by an agency  
3 created by congress to transmit or distribute electrical energy, property constructed, owned, or operated  
4 by a public agency created by the congress to transmit or distribute electric energy produced at privately  
5 owned generating facilities, {not including rural electric cooperatives};

6 (3) all property of scheduled airlines;

7 (4) the net proceeds of mines;

8 (5) the gross proceeds of coal mines; and

9 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15,  
10 chapter 24, part 12."

11  
12 Section 7. Section 15-23-202, MCA, is amended to read:

13 "15-23-202. Assessment -- how made. (1) The department ~~must~~ shall assess the ~~franchise,~~  
14 roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more  
15 than one county or more than one state. All rolling stock must be assessed in the name of the person  
16 owning, leasing, or using ~~the same~~ it. Assessment must be made to the person owning or leasing or using  
17 the ~~same~~ rolling stock and must be made upon the entire railroad within the state. The depots, stations,  
18 shops, and buildings erected upon the space covered by the right-of-way and all other property owned  
19 or leased by such a person, ~~except as above provided, shall~~ must be assessed by the department.

20 (2) In determining the taxable value of railroad property, the department shall determine the  
21 percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the  
22 federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

23  
24 Section 8. Section 15-23-303, MCA, is amended to read:

25 "15-23-303. Assessment of property -- apportionment to counties. The department ~~must~~ shall  
26 assess all the properties described in 15-23-301, but franchises ~~granted by the United States must~~ may  
27 not be assessed. The value of ~~such~~ properties for assessment purposes ~~shall~~ must be determined upon  
28 ~~such factors as~~ that the department considers proper."

29  
30 Section 9. Section 20-15-403, MCA, is amended to read:

1           **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"  
2 appears in the following sections outside of Title 20, the term includes community college districts and  
3 the provisions of those sections applicable to school districts apply to community college districts:  
4 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801,  
5 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
6 15-1-101, ~~15-6-204~~, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204,  
7 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404,  
8 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
9 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237, 41-3-1132, 49-3-101,  
10 49-3-102, 53-20-304, 77-3-321, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules  
11 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

12           (2) When the term "school district" appears in a section outside of Title 20 but the section is not  
13 listed in subsection (1), the school district provision does not apply to a community college district."  
14

15           **NEW SECTION.** **Section 10. Repealer.** Sections 15-6-204 and 15-8-403, MCA, are repealed.  
16

17           **NEW SECTION.** **Section 11. Codification instruction.** [Section 1] is intended to be codified as an  
18 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to  
19 [section 1].  
20

21           **NEW SECTION.** **Section 12. Saving clause.** [This act] does not affect rights and duties that  
22 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
23 act].  
24

25           **NEW SECTION.** **Section 13. Effective date -- applicability.** [This act] is effective January 1, 2000,  
26 and applies to property tax years beginning after December 31, 1999.  
27

- END -

# FISCAL NOTE

Bill #: SB0111

Title: Exempting intangible personal property  
from taxation

Primary  
Sponsor: Senator DePratu

Status: Introduced

Sponsor signature

Date

*Dave Lewis*  
Dave Lewis, Budget Director

*1-19-99*  
Date

## Fiscal Summary

|                                            | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|--------------------------------------------|------------------------------|------------------------------|
| <b>Expenditures:</b>                       |                              |                              |
| General Fund                               | 9,036                        | 520,036                      |
| <b>Revenue:</b>                            |                              |                              |
| General Fund                               |                              | (\$2,783,834)                |
| State Special Revenue                      |                              | (\$279,016)                  |
| <b>Net Impact on General Fund Balance:</b> | <b>(\$9,036)</b>             | <b>(\$3,303,907)</b>         |

| <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |                               |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X          |           | Significant Local Gov. Impact    | X          |           | Technical Concerns            |
|            | X         | Included in the Executive Budget | X          |           | Significant Long-Term Impacts |

## Fiscal Analysis

### ASSUMPTIONS:

1. The intangible values were calculated by using the difference between the majority of Montana utility companies' cost indicator of market value and the final system market value, correlating the three approaches to value; cost, stock and debt, and income. This calculation provided an estimate of how much assessed value for intangibles might be captured in the appraisal of centrally assessed property.
2. If the market value determined by the cost approach was larger than the market value assessed, no tax would be lost by exempting intangibles.
3. The exemption of intangible personal property from taxation as proposed by this bill would cause a significant decrease in taxable value.

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(continued)

4. A percent of value due to intangibles was calculated for each centrally assessed industry. Each industry's estimated percentage of intangibles was then applied to that industry's estimated 1998 taxes, resulting in an estimated loss in taxes of \$9,580,378 due to exempting intangibles.
5. A reduction in the valuation of class 9 property results in a decrease in the taxable rate of class 12 property (4R Act). It is estimated that the reduction in the taxable rate of class 12 property will result in a reduction in property taxes of \$560,814 (tax year 1998) paid by class 12 property.
6. An average growth factor of 2% for all centrally assessed property was used to project estimated tax loss for FY00 and FY01, using 1998 estimated tax loss as a base.
7. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 95 mill is levied is \$2,768,882 for FY01.
8. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 1.5 vo-tech mill is levied is \$14,952 for FY01.
9. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 9 mill state assumption of welfare is levied is \$104,139 in FY01.
10. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 6 mill university mill is levied is \$174,877 in FY01.
11. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on local governments is \$7,488,047 in FY01.
12. The reduction in taxable values will cause school districts to increase GTB levies in FY2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA.(see technical note 4). The higher levies will increase the amount of state GTB aid by \$511,000. In subsequent years the statewide GTB will be adjusted resulting in insignificant changes in state GTB aid.

FISCAL IMPACT:

|                      | <u>FY2000</u><br><u>Difference</u> | <u>FY2001</u><br><u>Difference</u> |
|----------------------|------------------------------------|------------------------------------|
| <u>Expenditures:</u> |                                    |                                    |
| Personal Services    | 9,036                              | 9,036                              |
| School GTB           |                                    | <u>511,000</u>                     |
| Total                | 9,036                              | 520,036                            |

Funding:

|                   |       |         |
|-------------------|-------|---------|
| General Fund (01) | 9,036 | 520,036 |
|-------------------|-------|---------|

Revenues:

|                            |  |               |
|----------------------------|--|---------------|
| General Fund (01)          |  | (\$2,783,834) |
| State Special Revenue (02) |  | (\$279,016)   |

Net Impact to Fund Balance (Revenue minus Expenditure):

|                            |           |               |
|----------------------------|-----------|---------------|
| General Fund (01)          | (\$9,036) | (\$3,303,907) |
| State Special Revenue (02) |           | (\$279,016)   |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments would lose \$7,488,047 in FY01.

(continued)

The reduction in property tax value resulting from this bill will cause some school districts which budget at the BASE level, the minimum required under section 20-9-308 (1)(a), MCA, to increase taxes to maintain the minimum budget. Such increases will require a vote under provisions of CI75.

LONG-RANGE IMPACTS:

The long-range impacts for FY02 and each succeeding fiscal year should be at FY01 impact levels (\$2,807,822 for general fund loss, \$383,155 for state special revenue loss, and \$7,488,047 for local government revenue loss) adjusted by the growth rate of class 9 and 12 property (estimated at an average of 2% per year).

TECHNICAL NOTES:

1. New section 1 (2) of SB111 in which intangible property to be exempted from taxation is listed may create legal and technical valuation problems. As recommended by a study conducted under contract with the Utah Office of Legislative Research and General Counsel for the Utah Tax Review Commission, a specific list of exempted intangibles should avoid items which are not readily valued by markets. The intangible personal property in section 2 contains items of property that are not readily valued by markets. These items are listed as (b) brand names, trademarks, and trade names; (c) contracts and contract rights; (d) copyrights, patents, and trade secrets; (e) customer or patient lists; (f) franchises; (g) goodwill; (i) rights-of way that are possessory only and not accompanied by title; (j) software...(etc.)...; (k) water rights and mineral rights. Depending on the particular company that owns the asset or depending on the industry in which that company operates, items such as (b) – (k), except perhaps (h) may not be readily valued by markets. For example, water rights that are a part of a hydro-generation facility operation cannot easily be separated from the operating unit and readily valued as a separate asset.
2. Under new section 2 (1) (f) it is not necessary to eliminate the definition of credit.
3. Under new section 2 (1) (o) the term "property" does not need to be redefined for purposes of this bill.
4. School districts are required to budget at the BASE level under section 20-9-308 (1)(a), MCA. With the reduction in taxable values under this bill, provisions of CI75 will require voter approval to increase tax rates to continue to meet the minimum budget requirement. If voters do not approve the increase the district will be in violation of section 20-9-308, MCA.

**INDEX TO BILLS IN COMMITTEE**

June 30, 1999

**- Committee: (S) Taxation -**

05:12 PM

- SB 105**    **SPONSOR:** Ekegren, Pete                      **SHORT TITLE:** Clarify tax return confidentiality  
                 **BY REQUEST OF:** Department Of Revenue  
                 **REFERRED ON:** 01/04/1999              **HEARD ON:** 01/12/1999  
                 **FINAL DISPOSITION** 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal
- 
- SB 106**    **SPONSOR:** Ekegren, Pete                      **SHORT TITLE:** Clarify taxation of lottery proceeds  
                 **BY REQUEST OF:** Department Of Revenue  
                 **REFERRED ON:** 01/04/1999              **HEARD ON:** 01/14/1999  
                 **EXECUTIVE ACTION:** 01/14/1999 Bill Passed -- VOTE: 8 - 1  
                 **FINAL DISPOSITION** 02/20/1999 Chapter Number Assigned
- 
- SB 109**    **SPONSOR:** Ellis, Alvin                      **SHORT TITLE:** Revise due date of telephone license tax  
                 **BY REQUEST OF:** Department Of Revenue  
                 **REFERRED ON:** 01/04/1999              **HEARD ON:** 01/14/1999  
                 **EXECUTIVE ACTION:** 01/14/1999 Bill Passed -- VOTE: 7 - 2  
                 **FINAL DISPOSITION** 04/22/1999 (H) Died in Standing Committee
- 
- SB 110**    **SPONSOR:** Ellis, Alvin                      **SHORT TITLE:** Submit telephone license tax revision to electorate  
                 **BY REQUEST OF:** Department Of Revenue  
                 **REFERRED ON:** 01/04/1999              **HEARD ON:** 01/21/1999  
                 **EXECUTIVE ACTION:** 01/22/1999 Bill Passed -- VOTE: 8 - 1  
                 **FINAL DISPOSITION** 04/22/1999 (H) Died in Standing Committee
- 
- SB 111**    **SPONSOR:** DePratu, Bob                      **SHORT TITLE:** Exempting intangible personal property from taxation  
                 **BY REQUEST OF:** Revenue Oversight Committee  
                 **REFERRED ON:** 01/04/1999              **HEARD ON:** 01/29/1999  
                 **EXECUTIVE ACTION:** 02/10/1999 Bill Passed as Amended -- VOTE: 6 - 3  
                 **FINAL DISPOSITION** 05/10/1999 Chapter Number Assigned
- 
- SB 119**    **SPONSOR:** Devlin, Gerry                      **SHORT TITLE:** Vote on retaining tax revenue resulting from agricultural reclassification  
                 **REFERRED ON:** 01/04/1999  
                 **FINAL DISPOSITION** 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal
-

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **SEN. ALVIN ELLIS**, on January 29, 1999 at 8:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 111, 1/20/1999; SB 270,  
1/25/1999; SB 274, 1/25/1999  
Executive Action: SB 205, SB 206, SB 270, SB  
208, SB 175

**HEARING ON SB 274**

**Sponsor:** SENATOR BILL WILSON, SD 22, GREAT FALLS

**Proponents:** John Lawton, City Manager, City of Great Falls  
Andy Poole, Department of Commerce  
Terry Pehan, Great Falls Chamber of Commerce

HEARING ON SB 111

Sponsor: SENATOR BOB DEPRATU, SD 40, WHITEFISH

Proponents: Dennis Burr, Montana Taxpayers Association  
Steve Turkiewicz, Montana Auto Dealers Association  
Geoff Feiss, Montana Telecommunications Association  
Mike Strand, Montana Independent Telecommunications  
Systems  
Chris Gallus, Montana Chamber of Commerce  
Riley Johnson, National Federation of Independent  
Businesses

Opponents: M. S. Eaton, Business & Consumers Bureau of Montana

Opening Statement by Sponsor:

SEN. BOB DEPRATU, SD 40, Whitefish, presented SB 111, which is by request of and came out of the Revenue Oversight Committee, and is an act exempting intangible personal property from property taxation. He said the purpose of this bill is that the Department of Revenue felt that they were not fulfilling their responsibilities that they were granted by law of taxing intangibles, and that they were not presently being taxed. Those types of intangibles include basically what are listed in the new section of SB 111.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said that SEN. DEPRATU mentioned that this concept was originally brought to the Revenue Oversight Committee by the Department of Revenue. He said he was aware that the Department had been criticized for not taxing intangibles, and that criticism was based on the fact that there is no exemption for intangible property in Montana law. The Department's intention, as explained to the Oversight Committee at the time, was that they would prepare rules to tax intangibles which would become effective January 1 of 1999 and allow the legislature to determine whether they wanted all those intangibles to be taxed or whether they wanted to change the law to exempt intangible property. Mr. Burr said that the Oversight Committee chose to exempt intangibles which aren't currently being taxed rather than leave the law alone and try to pick up those intangibles.

Mr. Burr said that the fiscal note, reflects that the impact of exempting intangibles is really on centrally assessed properties. The reason for that is that in the method of assessing those

companies, capitalizing income, looking at the total value, their intangibles are in that total value, whereas main street businesses are generally assessed on the basis of replacement cost or property depreciated, and intangibles are not in that value. However, since intangibles are included in the centrally assessed valuations now and are taxed, the fiscal note is somewhere around a \$10 million decrease in taxes on those companies.

Referring to centrally assessed properties, **Mr. Burr** said that in 1997, they paid about \$173 million in property tax, which is almost 22% of total property taxes collected in Montana. Intangibles, according to this estimate, are about 6% of current utility valuations. That represents about 1.4% of total property tax collections which would be spread across the state wherever the allocations of utility values are put.

**Mr. Burr** said this is not a problem that is unique to Montana, that other states have also faced this problem because of the equal treatment problem between the utilities which are taxed on intangibles and other properties that are not. Utah, Idaho and Washington have passed legislation to stop taxing of utilities. It is an equal protection problem similar to some extent to the business equipment tax. He said if some properties are not going to be taxed for intangibles, it isn't equitable to tax intangibles of utilities. He urged serious consideration of this bill.

**Steve Turkiewicz, Montana Auto Dealers Association**, said that he would ask the committee to consider carefully the list of intangible properties that would become taxed that are not being taxed presently. He said the impact on jobs and the economy and on jobs and incomes by the ripple effect could be long reaching. He said the Auto Dealers feel this is a good bill and urged support.

**Geoff Feiss, General Manager, Montana Telecommunications Association**, said his organization represents large and small commercial as well as cooperative telephone companies throughout the state who are presently being taxed on intangibles. He said they have \$100 million of invested plant, and are investing over \$50 million a year in the state. He said almost anything that isn't property is intangible, and only a select few companies in the state are paying that tax, which is then passed on to the consumers. So the choice is to tax everyone on these intangibles, which would be a tremendous burden, or to get rid of the tax. He said his companies strongly encourage passage of SB 111.

**Mike Strand, Executive Vice-President and General Counsel, Montana Independent Telecommunication Systems**, said he represents independent rural telephone companies and rural telephone cooperatives. He said his organization supports this bill for many of the reasons already expressed. He said they feel it is fundamentally unfair for centrally assessed companies to pay this tax while other companies do not. He said either all companies should be taxed or none of them. He said taxing everyone for intangibles would open the floodgates for litigation as businesses argue over the value of their intangibles. He urged support for this bill.

**Chris Gallus, Montana Chamber of Commerce**, urged support for SB 111.

**Riley Johnson, National Federation of Independent Businesses and Air Transport Association of America**, said NFIB represents over 8,000 members, the majority of which would be affected by this legislation. He said ATA represents entities such as Delta Airlines, Northwest Airlines, UPS and Federal Express. He said these companies are concerned with fairness issues, and for all the reasons previously expressed, they support SB 111.

#### Opponents' Testimony:

**Myles Eaton, Executive Director of the Business and Consumers Bureau of Montana**, which is a Better Business Bureau-type operation. He said his organization is not basically opposed to SB 111, but only Section 1 (2) (h), licenses and permits. He said the Bureau would recommend the following change: "full liquor licenses" or some similar type wording, "are not to be exempt." The Montana Code calls for taxation of licenses. The Montana Department of Revenue has not taxed these licenses in the past even though required by law to do so. They advised that the reason is because they cannot establish a value of liquor licenses. These licenses are now going for between \$200,000 and \$300,000 and are considered assets for loan purposes. He provided a witness statement, EXHIBIT(5).

#### Questions from Committee Members and Responses:

**SEN. DEVLIN** asked **Gene Walborn, Department of Revenue**, about water rights and mineral rights and how the owners of mineral rights could be located to send a tax bill to, and **Mr. Walborn** said that that was part of the problem, identifying those and establishing a value. **SEN. DEVLIN** asked about licenses and permits, and what that entails, and **Mr. Walborn** said that that refers to those licenses that can be bought and sold, that can change ownership.

Referring to the fiscal note, **SEN. GLASER** said that on the existing revenue stream, this represents a hit of over \$3 million at the state level, and a \$7.5 million hit on local government. He said that represents \$4.5 million to schools. He asked **SEN. DEPRATU** how that was going to be accommodated. **SEN. DEPRATU** said that he realizes that there is going to be a loss, but he said he felt that if this tax for intangibles was added to businesses, it would encourage business to exodus Montana, and the result could be an even larger hit than is reflected on the fiscal note.

**SEN. GLASER** asked the Department of Revenue if it would be possible to get more detailed information regarding the figures on the fiscal note so the committee could get a grasp on these numbers, and **Brian Smith, Department of Revenue**, said they could provide that information.

**SEN. ECK** then asked the Department of Revenue for the rationale for not taxing liquor licenses, especially since the auditors called that to the Department's attention a number of times. **Gene Walborn, Department of Revenue**, said the basic problem is not being able to capture that data on licenses. Liquor licenses are one of those types of property that should be captured. If this bill does not pass, the Department will go out and capture those liquor licenses.

**SEN. ECK** said she would like to know what has been done in other states and how intangibles are handled elsewhere, and **Mr. Walborn** said that most of our neighboring states are exempting intangible properties. He said they are a little bit different than Montana because in their Constitution and their law, intangibles are exempt, so they don't capture it at the local level but are capturing it in the centrally assessed. He said, however, that they are experiencing a lot of litigation in doing that. Montana is the other way around. **Mr. Walborn** said the Department would be able to provide what states are taxing intangibles presently and will put that together for the committee.

**SEN. STANG** said that most personal property that we tax in Montana has a purchase price or a value the day that it is purchased and then it depreciates in value so that the tax is on a declining balance, but it appears that liquor licenses are appreciating in value, and he wondered if there would have to be a different way to value liquor licenses on a yearly basis, or if they would be allowed to depreciate them. **Mr. Walborn** said he would value them yearly using market comparables, so each year they would get a new market value for that liquor license.

**SEN. STANG** asked why the fiscal note for **SB 274** indicates there is no fiscal impact because we are not presently collecting the tax, and this fiscal note indicates there is an impact even though we are not actually collecting the tax, and how it is determined that local governments will be impacted, because they are not currently getting any of this tax. **Mr. Walborn** said that that can be measured in this bill because, unlike **SB 274**, this represents what is being captured in centrally assessed property today. This does not attempt to value all the intangibles listed in this bill, but is only representative of the centrally assessed properties, which are paying tax on the intangible personal property.

**SEN. STANG** asked if he was correct in believing that there was a measure passed that said if a bill has a fiscal impact to the local governments and the legislature does not fund that, that the bill is not valid, and **Mr. Heiman** said that that is the unfunded liabilities to local governments. When the state puts a duty on local government, the state is required to pay for making them do that duty. If the state does not pay for it, then the local governments don't have to do the duty. In this case there is no duty being imposed on the local governments.

**SEN. STANG** asked if this does lower the revenue to local governments, it appears that those local governments will then have to, under the provisions of **CI-75** vote to bring that tax back up to pay for that, and he wondered why this bill does not have a **CI-75** companion bill. **SEN. DEPRATU** said he had not considered this in that text, and could not answer that question.

**SEN. GLASER** asked how many more of these bills which create tax exemptions for convenience will the legislature have to consider, and **Mr. Walborn** said that he hoped it was not for convenience, that hopefully it is an enforcement issue, and when situations such as this one do arise, the Department needs to take steps to enforce the compliance on everyone for that tax type. He said he hoped that there are not any more bills out there, but it is the desire of the Department to enforce the law fairly and equitably to everyone, and that is the crux of this bill.

**SEN. EKEGREN** asked what a liquor license would cost, and **Mr. Smith** said that the cost of a beer and wine license upon issuance is \$800. **SEN. EKEGREN** then asked what makes a liquor license so valuable, and **Mr. Smith** responded that there is a quota system which influences the value of these licenses.

**SEN. ECK** asked how many more categories are a part of this intangible property that have not been addressed, and **Mr. Hoffman, Department of Revenue**, said that he has worked in the

compliance area of the Department of Revenue for 23 years, and these sort of situations where the world is changing and how people do business causes gaps within our law, and the Department has always tried to identify those gaps so the playing field can be level. This is what this bill is doing. He said probably all the problems have not been corrected because they may not even have been identified yet, but if an issue arises that impacts the taxes we have in Montana, the Department tries to deal with that.

**SEN. DEVLIN** said at one time the only things that were taxed were the things that were listed in the law, then there was a change that said everything is subject to tax unless it is explicitly exempted, and he wondered when that change occurred. **Mr. Hoffman** said he did not know.

**SEN. ELLIS** asked **Mr. Feiss** why intangibles are taxed in centrally assessed companies, and **Mr. Feiss** said that centrally assessed utilities are taxed on a total value which includes intangibles.

**SEN. ELLIS** then asked **Mr. Hoffman** what it is that these companies have that is intangible that you can assess, and he said that it relates more to the methodology that the Department uses for centrally assessed companies. The Department values the unit as a whole and they do not assess the separate components.

**SEN. ELLIS** then asked specifically if T&E, a machinery company in Yellowstone County, would have an intangible presence if they had branch businesses throughout the state, and **Mr. Hoffman** said they may have an intangible presence, but they would not be valued under Montana law under the unit value of appraisal because they don't have continuous intercounty property. **SEN. ELLIS** asked if the Department of Revenue had been required to defend this taxing of intangibles, and **Mr. Hoffman** said that they had not.

**SEN. ELLIS** asked **SEN. DEPRATU** whether some of the intangibles listed in **SB 111** might have a certain value, and he said he believes that in the case of intangibles, you really do not know what the value is until a fair market transaction has taken place and cash changes hands.

**Closing by Sponsor:**

**SEN. DEPRATU** thanked the committee for a fair hearing and all of the questions to help clarify the bill. He noted the lack of opposition, with just one person opposing just one small part of the bill, and he urged a do pass.

**Mary Bryson, Director, Department of Revenue**, provided a memo regarding assessment of intangible property, **EXHIBIT(6)**.

**MONTANA SENATE  
1999 LEGISLATURE  
TAXATION COMMITTEE**

## ROLL CALL

**DATE**

1/29/99

[illegible]



# MONTANA STATE SENATE

## SENATE TAXATION

DATE 1-29-99

EXH. 311 NO. 5

NO. 5B 111

**+++++ WITNESS STATEMENT +++++**

**NAME** MYLES S EATON

MAIL TO → P.O. Box 1149- BOZEMAN, MT 59771-1149

**ADDRESS** 2400 DUNSTON ROAD H 4  
1302 EMMAN, MT 59718-1810

BOZEMAN, MT 59718-1810

**HOME PHONE:** 586-3731 **WORK PHONE:**

**REPRESENTING** BUSINESS & CONSUMERS BUREAU OF  
MONTANA, INC

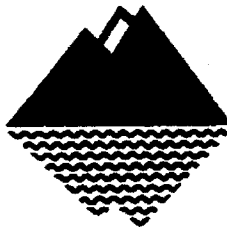
**APPEARING ON WHICH PROPOSAL ?** SB III

**DO YOU:      SUPPORT      OPPOSE X      AMEND X**

**COMMENTS:**

SECT 1 (17)

**PLEASE LEAVE PREPARED STATEMENT WITH  
COMMITTEE SECRETARY**



SENATE TAXATION  
DATE 1-29-99 X  
EXHIBIT NO. 6  
BILL NO. SB 111

Director's Office  
Sam W. Mitchell Building

Montana Department of  
**REVENUE**

P. O. Box 202701  
Helena, Montana 59620-2701

Date: October 23, 1998  
To: Revenue Oversight Committee  
From: Mary Bryson, Director *Mary Bryson*  
Re: Assessment of Intangible Property

Earlier this year, you requested the Department provide a list of the types of intangible property and whether it is taxed or not taxed. As requested, this memorandum identifies the types of intangible property and indicates if it is being assessed currently.

Table 1 is our first attempt at identifying intangible personal property. It includes a generic list of intangible property. Table 1 shows which intangible property is assessed today. The list also indicates the intangible property that is granted through a government action.

| Table 1<br>Types of Intangible Property<br>(excludes real property) |                               |                |                                  |
|---------------------------------------------------------------------|-------------------------------|----------------|----------------------------------|
| <u>Intangible Property</u>                                          | <u>Included in Assessment</u> |                | <u>Granted by<br/>Government</u> |
|                                                                     | <u>Local</u>                  | <u>Central</u> |                                  |
| Moneys and Credits                                                  | No                            | No             |                                  |
| Contracts and Contract Rights                                       | No                            | Yes            |                                  |
| Copy Rights                                                         | No                            | Yes            |                                  |
| Core Deposits of Financial institutions                             | No                            | No             |                                  |
| Custom Computer Programs                                            | No                            | Yes            |                                  |
| Customer Lists                                                      | No                            | Yes            |                                  |
| Franchise                                                           | No                            | Yes            |                                  |
| Goodwill                                                            | No                            | Yes            |                                  |
| Licenses - Gambling                                                 | No                            | No             | Yes                              |
| Licenses - Liquor                                                   | No                            | No             | Yes                              |
| Licenses - Other                                                    | No                            | Yes            | Yes                              |
| Patents                                                             | No                            | Yes            | Yes                              |
| Permits                                                             | No                            | Yes            | Some                             |
| Right-of-Way                                                        | No                            | Yes            |                                  |
| Trade Secrets                                                       | No                            | Yes            |                                  |
| Trademarks                                                          | No                            | Yes            |                                  |
| Water Rights                                                        | No                            | Yes            |                                  |
| Mineral Rights                                                      | No                            | Yes            |                                  |

## INTANGIBLE VALUE IN CENTRALLY ASSESSED PROPERTY

The Department conducted a very high level review to look at how much intangible property value is captured in the assessment of centrally assessed property. We reviewed the difference between each company's cost indicator of market value and the final system market value, correlating the three approaches to value: cost, stock and debt, and income. This calculation provided an estimate of how much assessed value for intangibles might be captured in the appraisal of centrally assessed property. Table 2 summarizes the estimated tax loss for centrally assessed property, by industry if intangibles were exempt from taxation.

If the market value determined by the cost approach was larger than the market value assessed, the review in Table 2 assumes no tax would be lost by exempting intangibles.

| <b>Table 2</b>                                                   |                                     |                                           |                                        |
|------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------------|
| <b>Estimated Loss in Taxes from Centrally Assessed Companies</b> |                                     |                                           |                                        |
| <b>Due to Exempting Intangible Property</b>                      |                                     |                                           |                                        |
| <u>Industry</u>                                                  | <u>1998<br/>Estimated<br/>Taxes</u> | <u>% Value<br/>Due to<br/>Intangibles</u> | <u>Estimated<br/>Loss in<br/>Taxes</u> |
| Railroad Industry                                                | \$21,444,964                        | 3.84%                                     | \$823,487                              |
| Electric Industry                                                | 94,366,643                          | 3.48%                                     | 3,283,959                              |
| Telecommunications Industry                                      | 34,287,268                          | 2.62%                                     | 898,326                                |
| Airline Industry                                                 | 2,690,001                           | 4.43%                                     | 119,167                                |
| Telephone Cooperatives                                           | 2,227,227                           | 9.00%                                     | 200,450                                |
| Electric Cooperatives                                            | 3,449,815                           | 0.00%                                     | 0                                      |
| Pipeline Industry                                                | <u>26,136,293</u>                   | 16.28%                                    | <u>4,254,989</u>                       |
| Total for All Industries                                         | <u>\$184,602,211</u>                |                                           | <u>\$9,580,378</u>                     |

Any high level analysis should be reviewed with caution. This brief analysis was merely an attempt to provide a quick look at how much intangible value may be captured in central assessment. To properly conduct this analysis a review of the intangible personal property listed above must occur. This would be a major undertaking and we do not intend to continue.

In conformity with state statute, beginning in 1999, the Department will identify and value the intangible property that is not taxed. The Department will begin assessing the intangible property in tax year 2000 for fiscal 2001 revenue.

20

DATE 1/29/99

SENATE COMMITTEE ON Vacation

BILLS BEING HEARD TODAY: SB 111, SB 270, SB 274

## PLEASE PRINT

| NAME            | PHONE        | REPRESENTING                              | BILL #             | SUPPORT | OPPOSE |
|-----------------|--------------|-------------------------------------------|--------------------|---------|--------|
| M.S. EATON      | 586-3731     | BUSINESS & CONSUMERS<br>BUREAU OF MONTANA | SB111              |         | X      |
| A POOLE         | 444-3797     | DEPT OF COMMERCE                          | SB274              | X       |        |
| Tim Burton      | 447-8311     | Lewis & Clark Co                          | SB270              | X       |        |
| TERRY PEHAN     | 761-4434     | GT Falls CHAMBER                          | SB274              | X       |        |
| Gary Blair      | 443-0905     | Spaceport MT                              | SB274              | X       |        |
| Bob Crane       | 665-1005     | Hardin Chamber/Commerce                   | SB 274             | X       |        |
| Dorion Morris   |              | MACO                                      | 270                | X       |        |
| Riley Johnson   | 443-3797     | NFIB                                      | SB111              | X       |        |
| Chris J. Gallus | 442-2405x102 | MT CHAMBER                                | SB111<br>SB274     | X       |        |
| TREY HARBERT    | 727-6222     | Gt Falls. CHAMBER                         | SB 274             | X       |        |
| JERRY THOMAS    | 256-6871     | BIG Sky Econ Dev. Assn                    | SB 274             | X       |        |
| Charles Brooks  | 442-2405     | B. Hilling, Chamber                       | SB 274<br>SB 111   | X       |        |
| Gene Walburn    | 414-0908     | DOR                                       | SB 111, 270<br>274 |         |        |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

2

DATE 1/29/99

SENATE COMMITTEE ON Taxation Committee

BILLS BEING HEARD TODAY: SB 111, SB 270, SB 274

## PLEASE PRINT

| NAME             | PHONE    | REPRESENTING                       | BILL #                     | SUPPORT     | OPPOSE |
|------------------|----------|------------------------------------|----------------------------|-------------|--------|
| Dennis Burr      |          | MT TAXPAYERS ASSOC                 | SB 111<br>SB 270<br>SB 274 | ✓<br>✓<br>✓ |        |
| John Lawton      | 455 8494 | City of Conant Falls               | SB 274                     | ✓           |        |
| Steve Turkiewicz | 442-1235 | Mt. Auto Dealers Assn              | SB 111                     | ✓           |        |
| Riley Johnson    | 443-3797 | NFTB                               | SB 111                     | ✓           |        |
| Mike Stand       | 443-1540 | MT Indus. & Comm. System           | SB 111                     | ✓           |        |
| Geoff Feiss      | 902 4316 | MT. Telecom Assn                   | SB 111                     | ✓           |        |
| Riley Johnson    | 443-3797 | OF AMERICA<br>AIR TRANSPORT ASS'N. | SB 111                     | ✓           |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |
|                  |          |                                    |                            |             |        |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on February 10, 1999 at  
8:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 92, 2/6/1999  
Executive Action: SB 111

**HEARING ON SB 92**

**Sponsor:** SENATOR STEVE DOHERTY, SD 24, GREAT FALLS

**Proponents:** Verner Bertelsen, Montana Senior Citizens  
Association

**Opponents:** None

recollects that the figure for the other program was higher.

**CHAIRMAN DEVLIN** asked if the Department could provide a number for the committee on that, and **Mr. Finch** said they could provide that.

**SEN. ELLIS** asked what the cost of these two programs would be if they were more fully utilized without this bill, and **Mr. Finch** said the Department would provide that.

**SEN. EKEGREN** said he assumes that if pensions, annuities, railroad retirement and Social Security are exempt, that a person could make \$40,000 or \$50,000, subtract all these things, and get property relief, and **Mr. Finch** said that was exactly the purpose of that exclusion.

**Closing by Sponsor:**

**SEN. DOHERTY** said he had some technical amendments that would be forthcoming. He said that we do need to look at excluding certain amounts of income to make seniors eligible for this kind of relief. They do not have to apply if they don't want to, but it should be available to them.

**SEN. DOHERTY** said that what this bill shows more than anything is the failure of government to let its citizens know what relief is available to them.

**EXECUTIVE ACTION ON SB 111**

**Motion:** **SEN. DEPRATU** moved SB011102.ALH DO PASS, EXHIBIT(3).

**Discussion:**

**SEN. DEPRATU** referred the committee to amendments dated February 9, 1999, and told them to disregard any earlier amendments. He said this set of amendments exempts the first \$1 million of taxable intangible property, and also deletes from the bill (a) money at interest, (d) copyrights, patents and trade secrets, (e) customer or patient lists, (g) goodwill, and (k) water rights and mineral rights.

**SEN. STANG** asked what the fiscal impact is of the bill with these amendments, and **SEN. DEPRATU** said it would be roughly \$890,000.

**SEN. STANG** asked if that was to state or local governments, and

**SEN. DEPRATU** said it was a combination of both. **Judy Paynter, Department of Revenue**, said that this is the Department's best estimates, and approximately 25% of that is reflected in the General Fund.

**SEN. STANG** asked why the figure of \$1 million was selected, and why \$500,000 might not work. That would allow the capture of more of that centrally assessed property, and **SEN. DEPRATU** said not knowing how the Department would value those items, this was more of a comfort level in order to exclude small business owners.

**CHAIRMAN DEVLIN** asked why (b), brand names, trademarks and trade names, was still in there, and **Mr. Heiman** said those had not been discussed as being part of those that should be excluded and so were not listed. **SEN. DEPRATU** said he would not have a problem deleting that if it was possible to do so.

Vote: Motion carried 7-2, with Eck and Ellingson voting no.

Motion/Vote: **SEN. DEPRATU** moved to EXCLUDE LINE 17, (B) BRAND NAMES, TRADEMARKS, AND TRADE NAMES. Motion carried 8-1 with Stang voting no.

Motion/Vote: **SEN. DEPRATU** moved SB 111 DO PASS AS AMENDED. Motion carried 6-3, with Stang, Ellingson and Eck voting no.

Amendments to Senate Bill No. 111  
1st Reading Copy

Requested by Senator Bob DePratu

For the Senate Taxation Committee

Prepared by Lee Heiman  
February 9, 1999

1. Title, line 5.

**Following:** "EXEMPTING"

**Insert:** "ALL"

**Following:** "PROPERTY"

**Insert:** ", EXCEPT THAT SPECIFICALLY TAXED,"

2. Title, lines 6 and 7.

**Following:** "TAXATION;" on line 6

**Insert:** "EXEMPTING THE FIRST \$1 MILLION OF VALUE OF TAXABLE  
INTANGIBLE PROPERTY;"

**Strike:** "SECTIONS" on line 6 through "20-15-403" on line 7

**Insert:** "SECTION 15-6-201"

**Strike:** "REPEALING SECTIONS 15-6-204 AND 15-8-403, MCA;" on line  
7

3. Page 1, line 12.

**Strike:** the second "Intangible"

**Insert:** "Except as specifically provided in subsection (2),  
intangible"

4. Page 1, line 14.

**Strike:** "For the purposes of this section,"

**Insert:** "The following"

**Strike:** "includes but"

**Strike:** "not limited to"

**Insert:** "taxable"

5. Page 1, lines 15 and line 16.

**Strike:** subsection (a) in its entirety

**Renumber:** subsequent subsections

6. Page 1, lines 19 and 20.

**Strike:** subsections (d) and (e) in their entirety

**Renumber:** subsequent subsections

7. Page 1, line 22.

**Strike:** subsection (g) in its entirety

**Renumber:** subsequent subsections

8. Page 1, line 23.

**Following:** "licenses"

**Insert:** ", other than those granted by a government,"

9. Page 1, line 24.

**Following:** "title;"

**Insert:** "and"

10. Page 1, lines 27 and line 28.

**Strike:** "; and" on line 27 through "rights" on line 28

11. Page 1, line 29 through page 2, line 4.

**Following:** "(3)"

**Strike:** "(a)" on line 29 through "property." on page 2, line 4

**Insert:** "The first \$1 million or less of value of taxable  
intangible property owned by a taxpayer is exempt from  
taxation."

12. Page 2, line 6 through page 8, line 15.

**Strike:** section 2 through section 10 in their entirety

**Insert:** "Section 2. Section 15-6-201, MCA, is amended to read:

"15-6-201. **Exempt categories.** (1) The following categories  
of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to  
tax property owned by the federal government or an agency created  
by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school  
districts;

(iii) irrigation districts organized under the laws of  
Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire  
protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings  
in the buildings, that are owned by a church and used for actual  
religious worship or for residences of the clergy, together with

adjacent land reasonably necessary for convenient use of the buildings; .

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and operated for private or corporate profit;

(e) property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that

constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i); and

(y) motorcycles and quadricycles; and

(z) the first \$1 million or less of value of taxable intangible personal property as provided in [section 1].

(2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships,

or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

{ Internal References to 15-6-201:

15-6-138      15-6-138      15-32-405      61-10-214} "

**Renumber:** subsequent sections

- END -



## SENATE STANDING COMMITTEE REPORT

February 10, 1999

Page 1 of 5

Mr. President:

We, your committee on **Taxation** report that **Senate Bill 111** (first reading copy -- white) do pass as amended.

Signed:

  
Senator Gerry Devlin, Chair

And, that such amendments read:

1. Title, line 5.

**Following:** "EXEMPTING"

**Insert:** "ALL"

**Following:** "PROPERTY"

**Insert:** ", EXCEPT THAT SPECIFICALLY TAXED,"

2. Title, lines 6 and 7.

**Following:** "TAXATION;" on line 6

**Insert:** "EXEMPTING THE FIRST \$1 MILLION OF VALUE OF TAXABLE  
INTANGIBLE PROPERTY;"

**Strike:** "SECTIONS" on line 6 through "20-15-403" on line 7

**Insert:** "SECTION 15-6-201"

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**Strike:** "For the purposes of this section,"

**Insert:** "The following"

**Strike:** "includes but"

**Strike:** "not limited to"

Committee Vote:

Yes 6, No 3.

331020SC.sjo

37

**Insert:** "taxable"

5. Page 1, line 15 through line 17.

**Strike:** subsections (a) and (b) in their entirety

**Renumber:** subsequent subsections

6. Page 1, lines 19 and 20.

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(A) if congress passes legislation that allows the state to  
tax property owned by the federal government or an agency created  
by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school

districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

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(e) property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

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(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

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(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

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(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i); and

(y) motorcycles and quadricycles; and

(z) the first \$1 million or less of value of taxable intangible personal property as provided in [section 11].

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"institutions of purely public charity" includes any organization that meets the following requirements:

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(ii) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

**Renumber:** subsequent sections

- END -

**MONTANA SENATE  
1999 LEGISLATURE  
TAXATION COMMITTEE**

**ROLL CALL**

**DATE**

2/10/99

[illegible]

## INDEX TO BILLS IN COMMITTEE

**- Committee: (H) Taxation -**

June 30, 1999

04:07 PM )

**SB 110**    **SPONSOR:** Ellis, Alvin                      **SHORT TITLE:** Submit telephone license tax revision to electorate

**BY REQUEST OF: Department Of Revenue**

**REFERRED ON: 02/16/1999**

**FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee**

**SB 111**    **SPONSOR:** DePratu, Bob                      **SHORT TITLE:** Exempting intangible personal property from taxation

**BY REQUEST OF: Revenue Oversight Committee**

**REFERRED ON: 02/18/1999**

**HEARD ON: 03/03/1999**

**EXECUTIVE ACTION: 04/09/1999 Bill Concurred as Amended -- VOTE: 16 - 4**

**FINAL DISPOSITION 05/10/1999 Chapter Number Assigned**

**SB 151**    **SPONSOR:** Toews, Daryl                      **SHORT TITLE:** Clarify community college retirement levy jurisdiction

**REFERRED ON: 02/16/1999**

**HEARD ON: 03/03/1999**

**EXECUTIVE ACTION: 04/08/1999 Bill Concurred -- VOTE: 19 - 1**

**FINAL DISPOSITION 04/22/1999 Chapter Number Assigned**

**SB 159**    **SPONSOR:** Devlin, Gerry                      **SHORT TITLE:** Discount for certain tax payment methods

**REFERRED ON: 02/16/1999**

**HEARD ON: 03/03/1999**

**TABLED ON: 04/07/1999**

**FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee**

**SB 167**    **SPONSOR:** Tester, Jon                      **SHORT TITLE:** Exempt certain low-income housing property from taxation

**BY REQUEST OF: Department Of Commerce**

**BY REQUEST OF: Joint Select Committee On Jobs And Income**

**REFERRED ON: 02/16/1999**

**HEARD ON: 03/04/0999**

**HEARD ON: 03/04/1999**

**EXECUTIVE ACTION: 04/07/1999 Bill Concurred -- VOTE: 17 - 3**

**FINAL DISPOSITION 04/23/1999 Chapter Number Assigned**

**SB 172**      **SPONSOR:** Waterman, Mignon      **SHORT TITLE:** Telephone license tax credit

**BY REQUEST OF: (H) Select Committee On Jobs And Income Committee**

**BY REQUEST OF: Joint Select Committee On Jobs And Income**

**REFERRED ON: 02/16/1999**

HEARD ON: 03/04/1999

**EXECUTIVE ACTION: 04/08/1999 Bill Concurred as Amended -- VOTE: 11 - 9**

**FINAL DISPOSITION 05/04/1999 Chapter Number Assigned**

# FISCAL NOTE

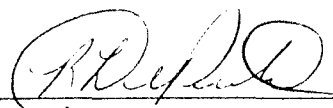
Bill #: SB0111

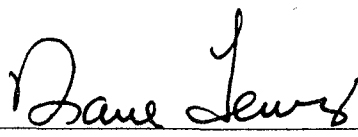
Title: Exempting intangible personal property  
from taxation

Primary

Sponsor: Senator DePratu

Status: Second Reading

 2/11/99  
Sponsor signature Date

 2-13-99  
Dave Lewis, Budget Director Date

## Fiscal Summary

|                                            | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|--------------------------------------------|------------------------------|------------------------------|
| <b>Expenditures:</b>                       |                              |                              |
| General Fund                               | 295,344                      | 378,946                      |
| <b>Revenue:</b>                            |                              |                              |
| General Fund                               |                              | (\$395,772)                  |
| State Special Revenue                      |                              | (39,667)                     |
| <b>Net Impact on General Fund Balance:</b> | <b>(295,344)</b>             | <b>(774,718)</b>             |

| <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |                               |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X          |           | Significant Local Gov. Impact    | X          |           | Technical Concerns            |
|            | X         | Included in the Executive Budget | X          |           | Significant Long-Term Impacts |

## Fiscal Analysis

### ASSUMPTIONS:

1. For purposes of calculating administrative expenses, taxpayers will be required to report annually their taxable intangible property.
2. Assumes that the intangible personal property is severable and transferable.
3. The bill requires the department to value intangible personal property currently not separately valued. This will require an additional 3 appraisers.
4. There will be legal challenges to the value established for intangible personal property, which requires an additional attorney.
5. The exemption of intangible personal property from taxation as proposed by this bill could cause a significant decrease in taxable value for class 9 and class 12 property.
6. The estimated tax revenue loss due to exempting intangibles is \$1,500,000 in FY01. However, due to the lack of historical data on separately assessed intangible personal property, the impact of the bill could be a

SB 111 #2

cl4

(continued)

larger revenue loss. Conversely, revenue could increase due to the assessment of intangible personal property not previously assessed.

7. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 95 mill is levied is \$393,646 for FY01.
8. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 1.5 vo-tech mill is levied is \$2,126 for FY01.
9. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 9 mill state assumption of welfare is levied is \$14,805 in FY01.
10. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on which the 6 mill university mill is levied is \$24,862 in FY01.
11. The estimated loss in property tax revenue due to exempting intangible value from centrally assessed companies' property tax values on local governments is \$1,064,561 in FY01.
12. The reduction in taxable values will cause school districts to increase GTB levies in FY2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA. The higher levies will increase the amount of state GTB aid by \$133,676. In subsequent years the statewide GTB will be adjusted resulting in changes in state GTB aid.

FISCAL IMPACT:

|                      | FY2000<br><u>Difference</u> | FY2001<br><u>Difference</u> |
|----------------------|-----------------------------|-----------------------------|
| FTE                  | 4.0                         | 4.0                         |
| <u>Expenditures:</u> |                             |                             |
| Personal Services    | 137,981                     | 136,892                     |
| Operating Expenses   | 149,363                     | 108,378                     |
| Equipment            | 8,000                       |                             |
| School GTB           |                             | <u>133,676</u>              |
| Total                | 295,344                     | 378,946                     |

Funding:

|                   |         |         |
|-------------------|---------|---------|
| General Fund (01) | 295,344 | 378,946 |
|-------------------|---------|---------|

Revenues:

|                            |             |
|----------------------------|-------------|
| General Fund (01)          | (\$395,772) |
| State Special Revenue (02) | (\$39,667)  |

Net Impact to Fund Balance (Revenue minus Expenditure):

|                            |             |             |
|----------------------------|-------------|-------------|
| General Fund (01)          | (\$295,344) | (\$774,718) |
| State Special Revenue (02) |             | (\$39,667)  |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments would lose \$1,064,561 in FY01.

The reduction in property tax value resulting from this bill will cause some school districts which budget at the BASE level, the minimum required under section 20-9-308 (1)(a), MCA, to increase taxes to maintain the minimum budget. Such increases will require a vote under provisions of CI75.

LONG-RANGE IMPACTS:

(continued)

The long-range impacts for FY02 and each succeeding fiscal year should be at FY01 impact levels, adjusted by the growth rate of class 9 and 12 property (estimated at an average of 2% per year). These amounts are \$403,688 for general fund loss, \$40,460 for state special revenue loss, and \$1,085,852 for local government revenue loss in FY02

## SENATE BILL NO. 111

INTRODUCED BY DEPRATU B

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING ALL INTANGIBLE PERSONAL PROPERTY, EXCEPT THAT SPECIFICALLY TAXED, FROM PROPERTY TAXATION; EXEMPTING THE FIRST \$1 MILLION OF VALUE OF TAXABLE INTANGIBLE PROPERTY; AMENDING ~~SECTIONS 15-1-101, 15-8-201, 15-8-405, 15-8-407, 15-23-101, 15-23-202, 15-23-303, AND 20-15-403~~ SECTION 15-6-201, MCA; REPEALING ~~SECTIONS 15-6-204 AND 15-8-403~~, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Intangible personal property exemption. (1) ~~Intangible~~ EXCEPT AS SPECIFICALLY PROVIDED IN SUBSECTION (2), INTANGIBLE personal property is exempt from taxation.

(2) ~~For the purposes of this section, THE FOLLOWING~~ intangible personal property includes but is not limited to TAXABLE:

~~(a) money at interest, bonds, notes, claims, demands, and all other evidences of indebtedness, secured or unsecured, including notes, bonds, or certificates secured by mortgages;~~

~~(b) brand names, trademarks, and trade names;~~

~~(c)(A) contracts and contract rights;~~

~~(d) copyrights, patents, and trade secrets;~~

~~(e) customer or patient lists;~~

~~(f)(B) franchises;~~

~~(g) goodwill;~~

~~(h)(C) licenses, OTHER THAN THOSE NONTRANSFERABLE LICENSES GRANTED BY A GOVERNMENT,~~ and permits;

~~(i)(D) rights-of-way that are possessory only and not accompanied by title; AND~~

~~(j)(E) software, including application programs and custom programs, but not including basic operating systems fundamental and necessary to the functioning of a computer, machine, or other~~

1 mechanical or electromechanical system; and

2 ~~\_\_\_\_\_ (k) water rights and mineral rights.~~

3 (3) ~~(a) Intangible personal property does not include zoning, location, view, geographic features,~~  
4 ~~easements, covenants, proximity to raw materials or markets, condition of surrounding property, or other~~  
5 ~~characteristics or attributes of property.~~

6 ~~\_\_\_\_\_ (b) The presence of intangible personal property must be assumed in determining the highest and~~  
7 ~~best use of taxable property, but the value of intangible personal property may not be included in the~~  
8 ~~value of taxable property. THE FIRST \$1 MILLION OR LESS OF VALUE OF TAXABLE INTANGIBLE PROPERTY OWNED BY~~  
9 ~~A TAXPAYER IS EXEMPT FROM TAXATION.~~

10  
11 ~~\_\_\_\_\_ Section 2. Section 15-1-101, MCA, is amended to read:~~

12 ~~\_\_\_\_\_ "15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in~~  
13 ~~this section are used in connection with taxation, they are defined in the following manner:~~

14 ~~\_\_\_\_\_ (a) The term "agricultural" refers to:~~

15 ~~\_\_\_\_\_ (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and~~  
16 ~~vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for~~  
17 ~~commercial purposes; and~~

18 ~~\_\_\_\_\_ (ii) the raising of domestic animals and wildlife in domestication or a captive environment.~~

19 ~~\_\_\_\_\_ (b) The term "assessed value" means the value of property as defined in 15-8-111.~~

20 ~~\_\_\_\_\_ (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and~~  
21 ~~the profit margin shown in national appraisal guides and manuals or the valuation schedules of the~~  
22 ~~department.~~

23 ~~\_\_\_\_\_ (d) (i) The term "commercial", when used to describe property, means property used or owned~~  
24 ~~by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income;~~  
25 ~~except property described in subsection (1)(d)(iii).~~

26 ~~\_\_\_\_\_ (ii) The following types of property are not commercial:~~

27 ~~\_\_\_\_\_ (A) agricultural lands;~~

28 ~~\_\_\_\_\_ (B) timberlands and forest lands;~~

29 ~~\_\_\_\_\_ (C) single family residences and ancillary improvements and improvements necessary to the~~  
30 ~~function of a bona fide farm, ranch, or stock operation;~~

~~———— (D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade;~~

~~———— (E) all property described in 15-6-135; and~~

~~———— (F) all property described in 15-6-136.~~

~~———— (c) The term "comparable property" means property that:~~

~~———— (i) has similar use, function, and utility;~~

~~———— (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and~~

~~———— (iii) has the potential of a similar highest and best use.~~

~~———— (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.~~

~~———— (g)(f) (i) "Department", except as provided in subsection (1)(g)(iii) (1)(f)(ii), means the department of revenue provided for in 2-15-1301.~~

~~———— (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.~~

~~———— (h)(g) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.~~

~~———— (i)(h) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.~~

~~———— (j)(i) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.~~

~~———— (k)(j) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.~~

~~———— (l)(k) The term "manufactured home" means a residential dwelling built in a factory in accordance~~

1 with the United States department of housing and urban development code and the federal Manufactured  
2 Home Construction and Safety Standards. A manufactured home does not include a mobile home, as  
3 defined in 61-1-501 and in subsection (1)(m)(i) of this section, a housetrailer, as defined in 61-1-501, or  
4 a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety  
5 Standards went into effect on June 15, 1976.

6 ~~\_\_\_\_\_ (m)(i) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or~~  
7 ~~"trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to~~  
8 ~~another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to~~  
9 ~~8 feet in width or 45 feet in length used as a principal residence.~~

10 ~~\_\_\_\_\_ (n)(m) The term "personal property" includes everything that is the subject of ownership but that~~  
11 ~~is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal~~  
12 ~~property" as that term is described in [section 1].~~

13 ~~\_\_\_\_\_ (o)(n) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in~~  
14 ~~domestication to produce food or feathers.~~

15 ~~\_\_\_\_\_ (p)(o) The term "property" includes money, credits, bonds, stocks, franchises, and all other~~  
16 ~~matters and things, real, and tangible personal, and mixed, things capable of private ownership. This~~  
17 ~~definition may not be construed to authorize the taxation of the stocks of a company or corporation when~~  
18 ~~the property of the company or corporation represented by the stocks is within the state and has been~~  
19 ~~taxed.~~

20 ~~\_\_\_\_\_ (q)(p) The term "real estate" includes:~~

21 ~~\_\_\_\_\_ (i) the possession of, claim to, ownership of, or right to the possession of land;~~

22 ~~\_\_\_\_\_ (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501~~  
23 ~~and Title 15, chapter 23, part 8;~~

24 ~~\_\_\_\_\_ (iii) all timber belonging to individuals or corporations growing or being on the lands of the United~~  
25 ~~States; and~~

26 ~~\_\_\_\_\_ (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.~~

27 ~~\_\_\_\_\_ (r)(q) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking,~~  
28 ~~hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.~~

29 ~~\_\_\_\_\_ (s)(r) "Research and development firm" means an entity incorporated under the laws of this state~~  
30 ~~or a foreign corporation authorized to do business in this state whose principal purpose is to engage in~~

50

1 ~~theoretical analysis, exploration, and experimentation and the extension of investigative findings and~~  
2 ~~theories of a scientific and technical nature into practical application for experimental and demonstration~~  
3 ~~purposes, including the experimental production and testing of models, devices, equipment, materials, and~~  
4 ~~processes.~~

5 ~~—— (t)(s) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that~~  
6 ~~is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a~~  
7 ~~permanent foundation. Inventory does not have to be located at the business location of a dealer or a~~  
8 ~~distributor.~~

9 ~~—— (u)(t) The term "taxable value" means the percentage of market or assessed value as provided~~  
10 ~~for in Title 15, chapter 6, part 1.~~

11 ~~—— (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,~~  
12 ~~incorporated town, township, school district, irrigation district, or drainage district or a person, persons,~~  
13 ~~or organized body authorized by law to establish tax levies for the purpose of raising public revenue.~~

14 ~~—— (3) The term "state board" or "board" when used without other qualification means the state tax~~  
15 ~~appeal board."~~

16  
17 ~~—— Section 3. Section 15-8-201, MCA, is amended to read:~~

18 ~~—— "15-8-201. General assessment day. (1) The department shall, between January 1 and the~~  
19 ~~second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property~~  
20 ~~subject to taxation in each county:~~

21 ~~—— (2) The department shall assess property to:~~

22 ~~—— (a) the person by whom it was owned or claimed or in whose possession or control it was at~~  
23 ~~midnight of the preceding January 1; or~~

24 ~~—— (b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met~~  
25 ~~and the transfer certificate has been received and processed prior to determining the taxes that are due~~  
26 ~~as provided in 15-10-305(2).~~

27 ~~—— (3) The department shall also ascertain and assess all mobile homes arriving in the county after~~  
28 ~~midnight of the preceding January 1.~~

29 ~~—— (4) A mistake in the name of the owner or supposed owner of real property does not invalidate~~  
30 ~~the assessment.~~

51

1 ~~—— (5) The procedure provided by this section does not apply to:~~

2 ~~—— (a) motor vehicles;~~

3 ~~—— (b) motor homes, travel trailers, and campers;~~

4 ~~—— (c) watercraft;~~

5 ~~—— (d) livestock;~~

6 ~~—— (e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for~~  
7 ~~personal property taxes on the date that application is made for a special mobile equipment plate;~~

8 ~~—— (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and~~

9 ~~—— (g) property subject to the provisions of 15-16-203.~~

10 ~~—— (6) Credits must be assessed as provided in 15-1-101(1)(f)."~~

11  
12 ~~—— Section 4. Section 15-8-405, MCA, is amended to read:~~

13 ~~—— "15-8-405. Street railroads, bridges, and ferries. Street railroads, and bridges, and ferries and~~  
14 ~~their franchises owned by persons or corporations must be listed and assessed in the county, town, or~~  
15 ~~district where such the property or any portion thereof of the property is located, and the The track of~~  
16 ~~the railroad and the bridge are personal property."~~

17  
18 ~~—— Section 5. Section 15-8-407, MCA, is amended to read:~~

19 ~~—— "15-8-407. Railroads and other franchises. (1) The franchise, roadway, roadbed, rails, rolling~~  
20 ~~stock, and all other operating property of all railroads a railroad operated in more than one county or more~~  
21 ~~than one state must be assessed by the department of revenue as hereinafter provided in Title 15, chapter~~  
22 ~~23, part 2.~~

23 ~~—— (2) Other franchises, if granted by the authorities of a county or city, must be assessed in the~~  
24 ~~county or city within which they were granted; if granted by any other authority, they must be assessed~~  
25 ~~in the county in which the corporations, firms, or persons owning or holding them have their principal~~  
26 ~~place of business."~~

27  
28 ~~—— Section 6. Section 15-23-101, MCA, is amended to read:~~

29 ~~—— "15-23-101. Properties centrally assessed. The department of revenue shall centrally assess each~~  
30 ~~year:~~

~~\_\_\_\_\_ (1) the franchise, roadway, roadbeds, rails, rolling stock, and all other operating property of railroads and railroad car companies operating in more than one county in the state or more than one state;~~

~~\_\_\_\_\_ (2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines, natural gas or oil pipelines, canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, (not including rural electric cooperatives);~~

~~\_\_\_\_\_ (3) all property of scheduled airlines;~~

~~\_\_\_\_\_ (4) the net proceeds of mines;~~

~~\_\_\_\_\_ (5) the gross proceeds of coal mines; and~~

~~\_\_\_\_\_ (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."~~

~~\_\_\_\_\_ Section 7. Section 15-23-202, MCA, is amended to read:~~

~~\_\_\_\_\_ "15-23-202. Assessment -- how made. (1) The department must shall assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same it. Assessment must be made to the person owning or leasing or using the same rolling stock and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right of way and all other property owned or leased by such a person, except as above provided, shall must be assessed by the department.~~

~~\_\_\_\_\_ (2) In determining the taxable value of railroad property, the department shall determine the percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."~~

~~\_\_\_\_\_ Section 8. Section 15-23-303, MCA, is amended to read:~~

~~\_\_\_\_\_ "15-23-303. Assessment of property -- apportionment to counties. The department must shall~~

1 ~~assess all the properties described in 15-23-301, but franchises granted by the United States must may~~  
2 ~~not be assessed. The value of such properties for assessment purposes shall must be determined upon~~  
3 ~~such factors as that the department considers proper."~~

4  
5 ~~Section 9. Section 20-15-403, MCA, is amended to read:~~

6 ~~"20-15-403. Applications of other school district provisions. (1) When the term "school district"~~  
7 ~~appears in the following sections outside of Title 20, the term includes community college districts and~~  
8 ~~the provisions of those sections applicable to school districts apply to community college districts:~~  
9 ~~2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801,~~  
10 ~~7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,~~  
11 ~~15-1-101, 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204,~~  
12 ~~17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404,~~  
13 ~~18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,~~  
14 ~~39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237, 41-3-1132, 49-3-101,~~  
15 ~~49-3-102, 53-20-304, 77-3-321, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules~~  
16 ~~4D(2)(g) and 15(c), M.R.Civ.P., as amended:~~

17 ~~(2) When the term "school district" appears in a section outside of Title 20 but the section is not~~  
18 ~~listed in subsection (1), the school district provision does not apply to a community college district."~~

19  
20 ~~NEW SECTION. Section 10. Repealer. Sections 15-6-204 and 15-8-403, MCA, are repealed.~~

21  
22 SECTION 2. SECTION 15-6-201, MCA, IS AMENDED TO READ:

23 "15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

24 (a) except as provided in 15-24-1203, the property of:

25 (i) the United States, except:

26 (A) if congress passes legislation that allows the state to tax property owned by the federal  
27 government or an agency created by congress; or

28 (B) as provided in 15-24-1103;

29 (ii) the state, counties, cities, towns, and school districts;

30 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

1 (iv) municipal corporations;

2 (v) public libraries; and

3 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

4 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a  
5 church and used for actual religious worship or for residences of the clergy, together with adjacent land  
6 reasonably necessary for convenient use of the buildings;

7 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,  
8 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health  
9 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed  
10 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is  
11 not exempt.

12 (d) property that is:

13 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,  
14 or 21;

15 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent  
16 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

17 (iii) not maintained and operated for private or corporate profit;

18 (e) property that is owned or property that is leased from a federal, state, or local governmental  
19 entity by institutions of purely public charity if the property is directly used for purely public charitable  
20 purposes;

21 (f) evidence of debt secured by mortgages of record upon real or personal property in the state  
22 of Montana;

23 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or  
24 corporate profit;

25 (h) all household goods and furniture, including but not limited to clocks, musical instruments,  
26 sewing machines, and wearing apparel of members of the family, used by the owner for personal and  
27 domestic purposes or for furnishing or equipping the family residence;

28 (i) truck canopy covers or toppers and campers;

29 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

30 (k) motor homes;

1 (l) all watercraft;

2 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative  
3 association or nonprofit corporation organized to furnish potable water to its members or customers for  
4 uses other than the irrigation of agricultural land;

5 (n) the right of entry that is a property right reserved in land or received by mesne conveyance  
6 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by  
7 another to explore, prospect, or dig for oil, gas, coal, or minerals;

8 (o) (i) property that is owned and used by a corporation or association organized and operated  
9 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons  
10 with physical or mental impairments that constitute or result in substantial impediments to employment  
11 and that is not operated for gain or profit; and

12 (ii) property that is owned and used by an organization owning and operating facilities that are for  
13 the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

14 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and  
15 machinery with a market value of less than \$100;

16 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for  
17 training and practice for or competition in international sports and athletic events and that is not held or  
18 used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation"  
19 means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code  
20 and incorporated and admitted under the Montana Nonprofit Corporation Act.

21 (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
22 hand-held and that are used to:

23 (i) construct, repair, and maintain improvements to real property; or

24 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

25 (s) harness, saddlery, and other tack equipment;

26 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined  
27 in 33-25-105;

28 (u) timber as defined in 15-44-102;

29 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined  
30 in 61-1-114, and travel trailers as defined in 61-1-131;

1 (w) all vehicles registered under 61-3-456;

2 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck  
3 tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

4 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under  
5 subsection (1)(x)(i); ~~and~~

6 (y) motorcycles and quadricycles; and

7 (z) the first \$1 million or less of value of taxable intangible personal property as provided in  
8 [section 1].

9 (2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity"  
10 includes any organization that meets the following requirements:

11 (i) The organization qualifies as a tax-exempt organization under the provisions of section  
12 501(c)(3), Internal Revenue Code, as amended.

13 (ii) The organization accomplishes its activities through absolute gratuity or grants. However, the  
14 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
15 performances or entertainment or by other similar types of fundraising activities.

16 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
17 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
18 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property  
19 includes all real and personal property reasonably necessary for use in connection with the public display  
20 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit  
21 organization by an individual or for-profit organization, real and personal property owned by other persons  
22 is exempt if it is:

23 (i) actually used by the governmental entity or nonprofit organization as a part of its public  
24 display;

25 (ii) held for future display; or

26 (iii) used to house or store a public display.

27 (3) The following portions of the appraised value of a capital investment in a recognized nonfossil  
28 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,  
29 are exempt from taxation for a period of 10 years following installation of the property:

30 (a) \$20,000 in the case of a single-family residential dwelling;

1 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

2  
3 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
4 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to  
5 [section 1].  
6

7 NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that  
8 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
9 act].  
10

11 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective January 1, 2000,  
12 and applies to property tax years beginning after December 31, 1999.  
13

- END -

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on March 3, 1999 at 8:00 A.M., in Room 437 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Rick Dale (R)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Daniel Fuchs (R)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Sam Rose (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** Rep. John L. Holden (R)

**Members Absent:** None.

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

EXECUTIVE ACTION ON HB 646

Motion/Vote:

Rep. Rose MOVED to TABLE HB 646. On a voice vote, the MOTION PASSED, 20 - 0.

{Tape : 1; Side : A; Approx. Time Counter : 8.8}

HEARING ON SB 111

Opening Statement by Sponsor:

Sen. Bob DePratu, Senate District 40 EXHIBIT(1)

{Tape : 1; Side : A; Approx. Time Counter : 6.9}

Proponents' Testimony:

None.

Opponents' Testimony:

George Bennett, Montana Bankers Association

{Tape : 1; Side : A; Approx. Time Counter : 14.3}

Informational Testimony:

Mary Bryson, Director, Department of Revenue EXHIBIT(2), EXHIBIT(3), EXHIBIT(4), and EXHIBIT(5)

{Tape : 1; Side : B; Approx. Time Counter : 23}

Bill Squires, Montana Telecommunications Association

{Tape : 1; Side : B; Approx. Time Counter : 0.1}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 4.2}

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 2.6}

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL

DATE OF MEETING March 3, 1999

| NAME            | PRESENT | ABSENT | EXCUSED |
|-----------------|---------|--------|---------|
| Rep. Beck       | ✓       |        |         |
| Rep. Dale       | ✓       |        |         |
| Rep. Davies     | ✓       |        |         |
| Rep. Erickson   | ✓       |        |         |
| Rep. Fuchs      | ✓       |        |         |
| Rep. Gillan     | ✓       |        |         |
| Rep. Guggenheim | ✓       |        |         |
| Rep. Hanson     | ✓       |        |         |
| Rep. Harper     | ✓       |        |         |
| Rep. Harrington | ✓       |        |         |
| Rep. Holden     |         |        | ✓       |
| Rep. Jackson    | ✓       |        |         |
| Rep. Orr        | ✓       |        |         |
| Rep. Raney      | ✓       |        |         |
| Rep. Rehbein    | ✓       |        |         |
| Rep. Rose       | ✓       |        |         |
| Rep. Schmidt    | ✓       |        |         |
| Rep. Somerville | ✓       |        |         |
| Rep. Story      | ✓       |        |         |
| Rep. Hibbard    | ✓       |        |         |

1  
DATE 3/3/99  
SB 111

Amendments to Senate Bill No. 111  
3rd Reading Copy

Requested by Senator Bob DePratu

For the House Taxation Committee

Prepared by Lee Heiman  
February 22, 1999 (9:59AM)

1. Page 1, line 27.

**Following:** "permits;"

**Insert:** "and"

2. Page 1, line 28 through page 2, line 1.

**Strike:** "AND" on page 1, line 28 through "system" on page 2,  
line 1

- END -

*depratu*

*led*

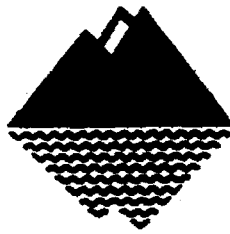


EXHIBIT 2  
DATE 3/3/99 X  
FB 5B111

Director's Office  
Sam W. Mitchell Building

Montana Department of  
**REVENUE**

P. O. Box 202701  
Helena, Montana 59620-2701

Date: October 23, 1998  
To: Revenue Oversight Committee  
From: Mary Bryson, Director *Mary Bryson*  
Re: Assessment of Intangible Property

Earlier this year, you requested the Department provide a list of the types of intangible property and whether it is taxed or not taxed. As requested, this memorandum identifies the types of intangible property and indicates if it is being assessed currently.

Table 1 is our first attempt at identifying intangible personal property. It includes a generic list of intangible property. Table 1 shows which intangible property is assessed today. The list also indicates the intangible property that is granted through a government action.

| Table 1<br>Types of Intangible Property<br>(excludes real property) |                        |         |            |
|---------------------------------------------------------------------|------------------------|---------|------------|
| Intangible Property                                                 | Included in Assessment |         | Granted by |
|                                                                     | Local                  | Central | Government |
| → Moneys and Credits                                                | No                     | No      |            |
| * Contracts and Contract Rights                                     | No                     | Yes     |            |
| ✓ Copy Rights                                                       | No                     | Yes     |            |
| Core Deposits of Financial institutions                             | No                     | No      |            |
| Custom Computer Programs                                            | No                     | Yes     |            |
| ✓ Customer Lists                                                    | No                     | Yes     |            |
| → * Franchise                                                       | No                     | Yes     |            |
| ✓ Goodwill                                                          | No                     | Yes     |            |
| Licenses - Gambling                                                 | No                     | No      | Yes        |
| → * Licenses - Liquor                                               | No                     | No      | Yes        |
| * Licenses - Other                                                  | No                     | Yes     | Yes        |
| ✓ Patents                                                           | No                     | Yes     | Yes        |
| → ? * Permits / <del>Licenses</del>                                 | No                     | Yes     | Some       |
| Right-of-Way                                                        | No                     | Yes     |            |
| ✓ Trade Secrets                                                     | No                     | Yes     |            |
| Trademarks                                                          | No                     | Yes     |            |
| * Water Rights                                                      | No                     | Yes     |            |
| * Mineral Rights                                                    | No                     | Yes     |            |

## INTANGIBLE VALUE IN CENTRALLY ASSESSED PROPERTY

The Department conducted a very high level review to look at how much intangible property value is captured in the assessment of centrally assessed property. We reviewed the difference between each company's cost indicator of market value and the final system market value, correlating the three approaches to value: cost, stock and debt, and income. This calculation provided an estimate of how much assessed value for intangibles might be captured in the appraisal of centrally assessed property. Table 2 summarizes the estimated tax loss for centrally assessed property, by industry if intangibles were exempt from taxation.

If the market value determined by the cost approach was larger than the market value assessed, the review in Table 2 assumes no tax would be lost by exempting intangibles.

| <b>Table 2</b>                                                   |                                     |                                           |                                        |
|------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------------|
| <b>Estimated Loss in Taxes from Centrally Assessed Companies</b> |                                     |                                           |                                        |
| <b>Due to Exempting Intangible Property</b>                      |                                     |                                           |                                        |
| <u>Industry</u>                                                  | <u>1998<br/>Estimated<br/>Taxes</u> | <u>% Value<br/>Due to<br/>Intangibles</u> | <u>Estimated<br/>Loss in<br/>Taxes</u> |
| Railroad Industry                                                | \$21,444,964                        | 3.84%                                     | \$823,487                              |
| Electric Industry                                                | 94,366,643                          | 3.48%                                     | 3,283,959                              |
| Telecommunications Industry                                      | 34,287,268                          | 2.62%                                     | 898,326                                |
| Airline Industry                                                 | 2,690,001                           | 4.43%                                     | 119,167                                |
| Telephone Cooperatives                                           | 2,227,227                           | 9.00%                                     | 200,450                                |
| Electric Cooperatives                                            | 3,449,815                           | 0.00%                                     | 0                                      |
| Pipeline Industry                                                | <u>26,136,293</u>                   | 16.28%                                    | <u>4,254,989</u>                       |
| Total for All Industries                                         | <u>\$184,602,211</u>                |                                           | <u>\$9,580,378</u>                     |

Any high level analysis should be reviewed with caution. This brief analysis was merely an attempt to provide a quick look at how much intangible value may be captured in central assessment. To properly conduct this analysis a review of the intangible personal property listed above must occur. This would be a major undertaking and we do not intend to continue.

In conformity with state statute, beginning in 1999, the Department will identify and value the intangible property that is not taxed. The Department will begin assessing the intangible property in tax year 2000 for fiscal 2001 revenue.

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## **A Primer on the Taxation of Intangible Personal Property**

Presented to Revenue Oversight Committee

Lee Heiman, Staff Attorney

October 10, 1997

### **Montana**

Under the law, "property" is something that is the subject of ownership. The "something" need not be a physical thing, but anything "corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal", the rights to which are guaranteed and protected by the government (Black's Law Dictionary, 6th Edition). Property is divided into real property and personal property. Real property is land, that which is affixed to the land, growing crops, and all interests in the land. Personal property is everything subject to ownership not coming under the definition of real property. Property can be either tangible--property that is touchable and has real physical existence--or intangible--property that cannot be touched because it has no physical existence, such as stocks, claims, and licenses.

Montana law at section 15-6-101, MCA, requires the taxation of all property not specifically exempted. Section 15-1-101, MCA, tax definitions, provides that:

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

This definition was taken almost verbatim from Art. XII, sec. 17, 1889 Montana Constitution. Under the 1889 Constitution, all property except that exempted in the Constitution was subject to taxation. Under the 1972 Constitution, there is no definition of property and the Legislature is granted the power to exempt property from taxation (Art. VIII, sec. 5, Montana Constitution).

Thus, since statehood, intangible property has been subject to property taxation. It wasn't until the adoption of the 1972 Constitution that the Legislature was even granted the power to exempt intangible property from taxation.

There are several provisions in Montana property tax law directed at specific types of intangible property. Montana taxes beneficial use of federal- and state-owned property (Title 15, chapter 24, part 12, MCA), railroad franchises and franchises granted by cities and counties (15-8-407, MCA), and franchises granted public utilities by other than the federal government (15-23-303, MCA).

In states taxing intangible property, the property bringing in the most revenue is stocks, bonds, notes, mortgages, and other evidences of indebtedness. Since 1979, Montana has specifically exempted these instruments from property taxation (15-6-204, MCA). These were probably the most important categories of intangible property at the time they were exempted from taxation and may have been so closely associated with the concept of the taxation of intangible property that upon their exemption, the taxation of other specific intangible property was never really considered. The value of franchises of railroads and public utilities may have a high value, but the value may not be severable from the tangible property they are associated with.

## Other States

There are approximately 22 states that tax intangible property. Some tax specific types of intangible property; others, like Montana, purportedly tax all intangible property. None of the states surrounding Montana has a general tax on intangible property, but Wyoming taxes water and reservoir rights, and Washington taxes some intangible property, including computer software and fishing rights.

California does not specifically tax intangible property, but it does include any increase in the valuation of taxable property due to intangible property as taxable. The California system came

as the result of *Roehm v. County of Orange*, 32 Cal.2d 280, 196 P.2d 550 (1948), which involved valuing real property that had a liquor license. Other California cases have recognized that certain tangible property with a nominal value must be valued with intangible property if the two cannot be severed. The types of intangible properties included goodwill, private licences, and franchises.

As mentioned earlier, most states with general taxation of intangible property receive the greatest revenue from the taxation of stocks, bonds, and other financial instruments (Legal Issues in Property Valuation and Taxation: Cases and Materials, Youngman, The International Association of Assessing Officers, 1994). There is a correlation between states that have corporate income taxes and property taxes on stocks and bonds. To avoid double taxation, many states have exemptions for stocks of corporations subject to income taxes. This exemption, and the problem of finding stocks and bonds within a state, is probably the reason the taxation of intangible property has become an almost inconsequential part of the property tax system.

## Discussion

Property taxes levied against intangible property amount to a very small percentage of total tax collections even in states that vigorously assess and tax the property. Of 22 states that purport to tax intangible property, only 5 have collections that amount to over 1% of state and local tax collections, and only Connecticut with 4.1% and New Hampshire with 2.1% collect in excess of 2% (Current Patterns and Trends in State and Local Intangibles Taxation, Bowman, et al., *National Tax Journal*, Vol. XLII, No. 4, 1991).

Intangible property is easier to conceal than real property (or it is more difficult to identify). Property must be within the state to be taxable by the state. Stocks, bonds, and financial instruments can be easily hidden or kept with an out-of-state custodian. Patents, trademarks, and copyrights can be a source of income, but what is their situs?

Montana has already exempted stocks, bonds, and evidences of indebtedness, but there are several other types of intangible property in Montana that have value and that can be independently taxed. These include liquor licenses, water rights, and commercial franchises. Goodwill, which is an asset bought and sold in commercial transactions, is also intangible property. Each of these is property that fits with class eight (commercial personal property) with a separately assessable value against which property taxes can be assessed. There are many other types of intangible property, but it can be cost prohibitive to administer a property tax against low-value property, which is by its nature difficult to identify.

It may be more feasible to tax most intangible property indirectly. The indirect method allows consideration of the intangible property when it affects the value of the taxable property. A building containing a bar with a liquor license is more valuable than a building containing a bar without the liquor license. In some instances, the value of the intangible property may already be considered in determining the value of the property. If the property is valued by capitalizing income, by definition all the property necessary for producing the income is valued. Even water rights, when used for irrigation, affect the productive capacity of agricultural land and are currently used for valuing agricultural land.

The most prudent way for Montana to tax intangible property is to directly tax only intangible properties that are specifically provided by law (the opposite of the way it works for tangible property) and to provide for indirect taxation of all other intangible properties.

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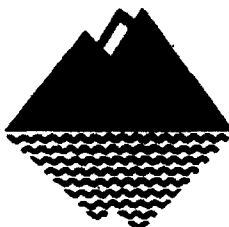


EXHIBIT 4  
DATE 3/3/99  
# SB111

Director's Office  
Sam W. Mitchell Building

Montana Department of  
**REVENUE**

P. O. Box 5806  
Helena, Montana 59604-5806

DATE: February 7, 1999  
TO: Senator Gerry Devlin, Chair  
Senate Taxation Committee  
FROM: Mary Bryson, Director  
RE: Intangible Property Alternatives

The Senate Taxation Committee asked the Department of Revenue to review some alternatives to SB111's language and potential taxation of intangible personal property. As I understand it, the committee's primary concern related to the cost associated with the elimination of taxation on intangible personal property. The department has reviewed your concerns and questions and believes they can be narrowed down to the three following areas.

**1. Can SB111 be amended to include some type of market value limitation or exemption on a portion of the market value? For example, the first one million dollars of market value would be exempt.**

SB111 could be amended to include this type of limitation. Such a limitation should mitigate the fiscal impact of SB111. However, the department believes there are some issues the committee should be aware of in discussing this option.

This option may not fully alleviate the concern about the fiscal impact or the impact on large taxpayers with intangible property. To determine the fiscal impact for the fiscal note, the department looked at centrally assessed companies as an industry. If we review each taxpayer independently some taxpayers drop off the list of those paying tax on their intangible personal property and other taxpayers will be added to the list when the department determines the value of their intangible personal property. Some large taxpayers (not limited to those in the Central Assessed category) with intangible personal property will likely see an increase in taxes. This is due to the fact that they currently are not being assessed on that property and have market values that will more than likely be in a range that an exemption of a portion of the intangible value will not offset the taxation of the intangible property. This will effect large commercial and industrial facilities.

The final concern the department presents is that this approach will require the department to appraise all intangible personal property to determine how much intangible value each taxpayer would have exempted. This exemption, although it

minimizes the fiscal impact may have other unintended consequences because the department would now value intangible personal property outside of the centrally assessed property that it currently has not valued. Administratively the department will see an increase in workload to accomplish an amendment of this type.

**2. Can SB111 be amended to only include certain categories of intangible personal property that would be taxed?**

The answer is yes. Legislative Services staff Lee Heiman presented a paper to the Revenue Oversight Committee suggesting that this option was available to the committee and that it may be the preferred option for the committee to consider. I have attached a copy of Lee's report for your consideration. The question becomes "What categories of intangible personal property should be valued and taxed?"

If the Legislature wants to pursue this option the department would suggest the following criteria be used to determine what categories should be taxed.

1. The intangible personal property should be *severable* from all other property. For example, those franchises that can be bought and sold should be taxed; e.g. McDonalds.
2. The property should be *transferable*. This is another requirement that must be considered. Can the intangible personal property legally be transferred from one owner to another? If so it should be taxed; e.g. liquor licenses. Some licenses are not transferable and would not satisfy this criteria.
3. The intangible personal property must *possess characteristics that allow a value to be established independently of the business or any other property owned by the seller*. An example of this is liquor licenses, where there is independent information that can be verified to determine the market value of the intangible personal property.
4. Finally, the determination should take into consideration the departments ability to administer the tax. This simply means that if intangible personal property is subject to taxation, it should be something that the department can accomplish.

Based on the above four criteria, the department reviewed the list provided to the Revenue Oversight Committee in October 1998. We believe the following types of intangible personal property may best satisfy the above criteria: contracts and contract rights; franchises; licenses (primarily liquor and others that are transferable); permits and leases; water rights; and mineral rights. This modification would modify the fiscal impact of SB111. Some property currently taxed would now be exempt, but other property would become subject to taxation, thereby both decreasing and increasing the tax revenue. We have not completed an estimate of the potential fiscal impact.

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The taxation of only certain types of intangibles could be problematic legally. Depending on the type of category or intangible to be taxed or exempted the state could likely face legal challenges based on equity and discrimination.

**3. What is the department's plan if no action is taken on the taxation of intangible property (if SB111 is tabled)?**

As the department discussed with the Revenue Oversight Committee, we intend to identify, to the best of our ability, the intangible personal property not being valued and taxed and place a value on that property. This process would begin immediately after the 1999 legislative session. We plan to begin the assessment of non taxed intangible personal property for tax year 2000.

The department intends to contact other states, state and federal agencies, or any other party required to identify and develop the necessary models needed to allow us to develop a feasible administrative position to tax intangible personal property. We also intend to use information that is currently in our possession; e.g. income tax returns, that allow us to perform other approaches to value: income and market approaches. By using an income approach to value we believe we will be able to capture the intangible value associated with property. It will require the department to approach the valuation of business property differently than we have in the past and we believe this is an appropriate change if the legislature does not exempt intangible personal property from taxation. We will request language in statute requiring businesses to provide certain types of information that will assist in the valuation of intangible personal property.

I hope this information provides you additional insight into the taxation of intangible personal property and is what you were looking for. The department believes some combination of options detailed in #1 and #2 above may be the most reasonable solution. If you have additional questions regarding this information, please contact me at 444-2462.

Attachment

71

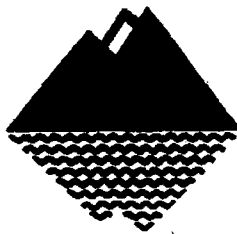


EXHIBIT 5  
DATE 3/3/99  
# SB 111

Director's Office  
Sam W. Mitchell Building

Montana Department of  
**REVENUE**

P. O. Box 5805  
Helena, Montana 59604-5805

DATE: February 9, 1999  
TO: Senator Gerry Devlin, Chair  
Senate Taxation Committee  
FROM: Mary Bryson, Director  
RE: Intangible Property - Fiscal Impacts

The Senate Taxation Committee asked the Department of Revenue to review SB111's potential fiscal impact on the taxation of intangible personal property. The following questions and answers attempt to address the different scenarios of taxation of intangible personal property and the associated fiscal impacts.

**1. What is the fiscal impact of exempting the first one million dollars of market value proposed in Senator DePratu's amendment?**

The Department estimates that exempting the first one million dollars of market value of intangible property will reduce the fiscal impact to the state and local governments to an estimated loss of \$890,000. The estimate is based solely on the impact to centrally assessed companies, as was the original fiscal note. The proposed amendment will also produce additional revenues from taxpayers currently not being taxed on their intangible property. The Department can not offer an estimate of what the impact will be on taxpayers or governments. The information required to calculate this impact is not collected by the Department.

**2. What is the fiscal impact of exempting each or combinations of intangible property as listed in the proposed legislation?**

As we have discussed before, the Department does not collect the necessary information to develop a fiscal impact for exempting specific intangible property. If an amendment is offered to exempt certain intangible property the best information that we could offer at this time is that the impact would be less than the \$9.5 million loss identified in the original fiscal note.

The Department does believe that the smaller list of intangible personal property identified in my February 8, 1999 letter may produce some intangibles that can be identified and valued. For example, the list included licenses. The department believes that certain licenses such as liquor licenses could be valued. If this list of intangibles is valued additional revenues will be produced.

*Bryson*  
5

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**3. What would be the impact of exempting some intangible property and the first one million dollars of intangible property from taxation?**

In my letter dated February 8, 1999 I stated that some combination of exempting the first one million dollars of intangible property and limiting the taxation to property that met the four-part test might be the most reasonable solution. Although this may be the most reasonable solution determining the fiscal impact of this type of proposal can not be accomplished. As stated above, the Department does not have the type of information required to develop a fiscal impact. The best that can be done at estimating the fiscal impact of some combination of a dollar threshold and exempting specific intangible property is that state and local governments could see a loss in revenues between \$890,000 and \$9.5 million.

I hope this information provides you additional insight into the taxation of intangible personal property. If you have additional questions regarding this information, please contact me at 444-2462.

# VISITOR REGISTER

## HOUSE TAXATION COMMITTEE

DATE: March 3, 1999

BILL NO: SB 111

SPONSOR: Sen DeMatu

| NAME AND ADDRESS<br>(PLEASE PRINT) | REPRESENTING       | TYPE OF WITNESS    |         |        |
|------------------------------------|--------------------|--------------------|---------|--------|
|                                    |                    | Informa-<br>tional | Support | Oppose |
| GEORGE BENNETT                     | MONT. BANKERS ASSN |                    |         | X      |
| Mary Bryson                        | DOR                | ✓                  |         |        |
| Bill Squires                       | MT. Tel. Assoc.    | ✓                  |         |        |
|                                    |                    |                    |         |        |
|                                    |                    |                    |         |        |
|                                    |                    |                    |         |        |
|                                    |                    |                    |         |        |
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|                                    |                    |                    |         |        |
|                                    |                    |                    |         |        |
|                                    |                    |                    |         |        |

Please leave prepared testimony with secretary.  
 Witness statement forms are available if you care to submit written testimony.

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**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on March 30, 1999 at 8:00 A.M., in Room 437 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Rick Dale (R)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Daniel Fuchs (R)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. John L. Holden (R)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** Rep. Sam Rose

**Members Absent:** None.

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

990330TAH.Hm1

75

EXECUTIVE ACTION ON SB 206

Motion/Vote: Rep. Orr moved to TABLE. Motion passed 20-0  
{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 0.5}

EXECUTIVE ACTION ON SB 111

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 0.5 - 17.2}

Motion: Rep. Story moved Be Concurred In.

{Tape : 3; Side : B; Approx. Time Counter : 17.2- 17.4}

Motion/Vote: Rep. Story moved Amendments to return back to original draft. Motion passed 19-1 with Rep. Erickson voting no.  
{Tape : 3; Side : B; Approx. Time Counter : 17.4 - 17.6}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 17.6 - 22}

Motion: Rep. Story moved amendments SB 111 to strike from Section 1, Subsection 2 and Subsection 3 in its entirety.  
{Tape : 3; Side : B; Approx. Time Counter : 22 - 23.1}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 23.1 - 28}  
{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 6.1}

Vote: Motion to accept Story's second set of Amendments passed 13-7 with Reps. Guggenheim, Harrington, Erickson, Beck, Harper, Raney and Gillan voting no.  
{Tape : 4; Side : A; Approx. Time Counter : 6.1 - 6.2}

The Bill was referred to Staff for drafting.  
{Tape : 4; Side : A; Approx. Time Counter : 6.2 - 7.1}

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL

DATE OF MEETING 3-30-99

| NAME            | PRESENT | ABSENT | EXCUSED |
|-----------------|---------|--------|---------|
| Rep. Beck       | ✓       |        |         |
| Rep. Dale       | ✓       |        |         |
| Rep. Davies     | ✓       |        |         |
| Rep. Erickson   | ✓       |        |         |
| Rep. Fuchs      | ✓       |        |         |
| Rep. Gillan     | ✓       |        |         |
| Rep. Guggenheim | ✓       |        |         |
| Rep. Hanson     | ✓       |        |         |
| Rep. Harper     | ✓       |        |         |
| Rep. Harrington | ✓       |        |         |
| Rep. Holden     | ✓       |        |         |
| Rep. Jackson    | ✓       |        |         |
| Rep. Orr        | ✓       |        |         |
| Rep. Raney      | ✓       |        |         |
| Rep. Rehbein    | ✓       |        |         |
| Rep. Rose       |         |        | ✓       |
| Rep. Schmidt    | ✓       |        |         |
| Rep. Somerville | ✓       |        |         |
| Rep. Story      | ✓       |        |         |
| Rep. Hibbard    | ✓       |        |         |

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL VOTE

BILL NO. SB111

DATE OF MEETING 3-30-99

MOTION: Concur Story

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       |     |    |         |
| Rep. Orr         |     |    |         |
| Rep. Schmidt     |     |    |         |
| Rep. Holden      |     |    |         |
| Rep. Rose        |     |    |         |
| Rep. Guggenheim  |     |    |         |
| Rep. Jackson     |     |    |         |
| Rep. Harrington  |     |    |         |
| Rep. Dale        |     |    |         |
| Rep. Sommerville |     |    |         |
| Rep. Erickson    |     |    |         |
| Rep. Rehbein     |     |    |         |
| Rep. Beck        |     |    |         |
| Rep. Davies      |     |    |         |
| Rep. Fuchs       |     |    |         |
| Rep. Harper      |     |    |         |
| Rep. Hanson      |     |    |         |
| Rep. Raney       |     |    |         |
| Rep. Gillan      |     |    |         |
| Rep. Hibbard     |     |    |         |

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL VOTE

BILL NO. SB111 DATE OF MEETING 3-30-99

MOTION: Story amendments

Return to original

Passed

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       |     |    |         |
| Rep. Orr         |     |    |         |
| Rep. Schmidt     |     |    |         |
| Rep. Holden      |     |    |         |
| Rep. Rose        |     |    |         |
| Rep. Guggenheim  |     |    |         |
| Rep. Jackson     |     |    |         |
| Rep. Harrington  |     |    |         |
| Rep. Dale        |     |    |         |
| Rep. Sommerville |     |    |         |
| Rep. Erickson    |     |    |         |
| Rep. Rehbein     |     |    |         |
| Rep. Beck        |     |    |         |
| Rep. Davies      |     |    |         |
| Rep. Fuchs       |     |    |         |
| Rep. Harper      |     |    |         |
| Rep. Hanson      |     |    |         |
| Rep. Raney       |     |    |         |
| Rep. Gillan      |     |    |         |
| Rep. Hibbard     |     |    |         |

*Erickson*

*[Signature]*

*19-1*

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL VOTE

BILL NO. SB111

DATE OF MEETING 3-30-99

MOTION: Concur as amended  
Story

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       |     |    |         |
| Rep. Orr         |     |    |         |
| Rep. Schmidt     |     |    |         |
| Rep. Holden      |     |    |         |
| Rep. Rose        |     |    |         |
| Rep. Guggenheim  |     |    |         |
| Rep. Jackson     |     |    |         |
| Rep. Harrington  |     |    |         |
| Rep. Dale        |     |    |         |
| Rep. Sommerville |     |    |         |
| Rep. Erickson    |     |    |         |
| Rep. Rehbein     |     |    |         |
| Rep. Beck        |     |    |         |
| Rep. Davies      |     |    |         |
| Rep. Fuchs       |     |    |         |
| Rep. Harper      |     |    |         |
| Rep. Hanson      |     |    |         |
| Rep. Raney       |     |    |         |
| Rep. Gillan      |     |    |         |
| Rep. Hibbard     |     |    |         |

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. SB111 DATE OF MEETING 3-30-99

MOTION: Story amend (3)  
Strike Sec. 1 (2) in its  
entirety

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       | ✓   |    |         |
| Rep. Orr         | ✓   |    |         |
| Rep. Schmidt     | ✓   |    |         |
| Rep. Holden      | ✓   |    |         |
| Rep. Rose        | ✓   |    |         |
| Rep. Guggenheim  |     | ✓  |         |
| Rep. Jackson     | ✓   |    |         |
| Rep. Harrington  |     | ✓  |         |
| Rep. Dale        | ✓   |    |         |
| Rep. Sommerville | ✓   |    |         |
| Rep. Erickson    |     | ✓  |         |
| Rep. Rehbein     | ✓   |    |         |
| Rep. Beck        |     | ✓  |         |
| Rep. Davies      | ✓   |    |         |
| Rep. Fuchs       | ✓   |    |         |
| Rep. Harper      |     | ✓  |         |
| Rep. Hanson      | ✓   |    |         |
| Rep. Raney       |     | ✓  |         |
| Rep. Gillan      |     | ✓  |         |
| Rep. Hibbard     | ✓   |    |         |

13 7

10

81

COMMITTEE ABSENTEE BALLOT

Date: 3/20/99

I hereby authorize Rep. Geller

to cast my vote(s) as follows:

SB 111 Amendment #1 YES amendment #2 NO  
~~SB 111~~

Representative Zager

COMMITTEE ABSENTEE BALLOT

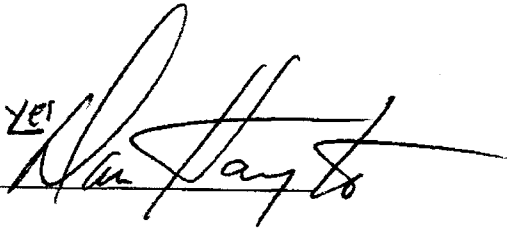
Date: March 30 '99

I hereby authorize Rep. Gillan

to cast my vote(s) as follows:

SB 205 Technical amendments YES  
SB 205 aviation amendment YES  
SB 205 Bill - YES  
SB 111 - deletion to return to original form YES

Representative



## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on April 9, 1999 at 8:00 A.M., in Room 437 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Sam Rose (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** Rep. Rick Dale (R)  
Rep. Daniel Fuchs (R)

**Members Absent:** Rep. John L. Holden (R)

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch  
Pam Schindler, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 529, SB 532, 3/31/1999  
Executive Action: SB 454-Be concurred in a  
Amended, SB 430-Be concurred  
in as Amended, SB 424-Be

Sponsor:

Senator McNutt presented SB 532.

{Tape : 1; Side : B; Approx. Time Counter : 112 - 235}

Proponents:

Bill Barr, Richland Economic Development

{Tape : 1; Side : B; Approx. Time Counter : 235 - 295}

Ken Redman, West Crane Dairy

{Tape : 1; Side : B; Approx. Time Counter : 295 - 338}

Bob Duncan, West Crane Dairy

{Tape : 1; Side : B; Approx. Time Counter : 338 - 393}

John Franklin, President, First Bank of Sidney

{Tape : 1; Side : B; Approx. Time Counter : 393 - 418}

Mike Dane, West Crane Dairy

{Tape : 1; Side : B; Approx. Time Counter : 418 - 480}

Bob Gilbert, Montana Dairy Association

{Tape : 1; Side : B; Approx. Time Counter : 480 - 550}

Gloria Paladichuk, Richland Economic Development

{Tape : 2; Side : A; Approx. Time Counter : 0 - 19}

Ralph Peck, Montana Dept. of Agriculture

{Tape : 2; Side : A; Approx. Time Counter : 19 - 26}

Mike Murphy, Water Resources Association

{Tape : 2; Side : A; Approx. Time Counter : 26 - 37}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 37 - 328}

Closing by Sponsor:

Senator McNutt made closing statements.

{Tape : 2; Side : A; Approx. Time Counter : 328 - 352}

EXECUTIVE ACTION ON SB 111

Jeff Martin, Legislative Staff Attorney, distributed amendments.

No Motion was made to Concur or to Move the amendments. After much discussion; a Substitute Bill was introduced regarding SB 111.

EXHIBIT(1)

Motion: REP. STORY moved that SB 111 BE CONCURRED IN.

Motion/Vote: REP. STORY moved that SB 111 BE AMENDED. Motion carried 17-3 with Harper, Harrington, and Raney voting no.

Motion/Vote: REP. STORY moved that SB 111 BE CONCURRED IN AS AMENDED. Motion carried 16-4 with Erickson, Harper, Harrington, and Raney voting no.

{Tape : 2; Side : A; Approx. Time Counter : 352 - 550}

{Tape : 2; Side : B; Approx. Time Counter : 0 - 550}

EXECUTIVE ACTION ON SB 454

Motion: REP. REHBEIN moved that SB 454 BE CONCURRED IN.

Motion: REP. REHBEIN moved that SB 454 BE AMENDED.

EXHIBIT(2)

Motion/Vote: REP. STORY moved that SB 454 BE AMENDED with a SUBSTITUTE AMENDMENT. Motion carried 19-1 with Jackson voting no.

Motion/Vote: REP. REHBEIN moved that SB 454 BE CONCURRED IN AS AMENDED. Motion carried 19-1 with Jackson voting no.

{Tape : 3; Side : A; Approx. Time Counter : 0 - 341}

EXECUTIVE ACTION ON SB 487

Motion: REP. GILLAN moved that SB 487 BE CONCURRED IN.

Motion/Vote: REP. HANSON moved that SB 487 BE AMENDED. Motion carried unanimously.

EXHIBIT(3)

Motion/Vote: REP. HANSON moved that SB 487 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 341 - 550}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 69}

EXECUTIVE ACTION ON SB 430

Motion: REP. HANSON moved that SB 430 BE CONCURRED IN.

Motion/Vote: REP. HANSON moved that SB 430 BE AMENDED. Motion carried unanimously.

EXHIBIT(4)

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# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL

DATE OF MEETING

4/9/99

| NAME            | PRESENT | ABSENT | EXCUSED |
|-----------------|---------|--------|---------|
| Rep. Beck       | /       |        |         |
| Rep. Dale       |         |        | /       |
| Rep. Davies     | /       |        |         |
| Rep. Erickson   | /       |        |         |
| Rep. Fuchs      |         |        | /       |
| Rep. Gillan     | /       |        |         |
| Rep. Guggenheim | /       |        |         |
| Rep. Hanson     | /       |        |         |
| Rep. Harper     | /       |        |         |
| Rep. Harrington | /       |        |         |
| Rep. Holden     |         | /      |         |
| Rep. Jackson    | /       |        |         |
| Rep. Orr        | /       |        |         |
| Rep. Raney      | /       |        |         |
| Rep. Rehbein    | /       |        |         |
| Rep. Rose       | /       |        |         |
| Rep. Schmidt    | /       |        |         |
| Rep. Somerville | /       |        |         |
| Rep. Story      | /       |        |         |
| Rep. Hibbard    | /       |        |         |

5



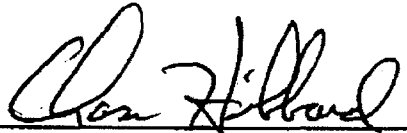
## HOUSE STANDING COMMITTEE REPORT

April 9, 1999

Page 1 of 7

Mr. Speaker:

We, your committee on Taxation report that Senate Bill 111 (third reading copy -- blue) be concurred in as amended.

Signed: 

*Representative Chase Hibbard, Chair*

To be carried by Representative Roger Somerville

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "ALL"

Strike: ", EXCEPT"

2. Title, line 6 through line 7.

Strike: "THAT SPECIFICALLY TAXED," on line 6

Strike: "EXEMPTING" on line 6 through "PROPERTY;" on line 7

3. Title, page 1, line 8.

Strike: "SECTION 15-6-201"

Insert: "SECTIONS 15-1-101, 15-8-201, 15-8-404, 15-8-405, 15-8-406, 15-8-407, 15-23-101, 15-23-202, and 15-23-303"

4. Title, page 19, line 9.

Following: "MCA,"

Insert: "REPEALING SECTION 15-8-403, MCA;"

5. Page 1, line 14 through page 12, line 12.

Strike: everything after the enacting clause

"NEW SECTION. Section 1. Intangible personal property exemption. (1) Intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or

Committee Vote:

Yes 16, No 4.

771329SC.ham

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evidence of value, including but not limited to certificates of stock, bonds, promissary notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill."

**Insert:** "Section 2. Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection

(1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms "gas" and "natural gas" are synonymous and

mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in [section 1].

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the

company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(s) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(u) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification means the state tax appeal board.""

**Insert: "Section 3. Section 15-8-201, MCA, is amended to read:**

**"15-8-201. General assessment day.** (1) The department shall, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes

that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

- (a) motor vehicles;
- (b) motor homes, travel trailers, and campers;
- (c) watercraft;
- (d) livestock;
- (e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate;

(f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

(g) property subject to the provisions of 15-16-203.

~~(6) Credits must be assessed as provided in 15-1-101(1)(f)."~~

"Section 4. Section 15-8-404, MCA, is amended to read:

"15-8-404. **Property of particular types of firms.** (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his the business is carried on.

(2) The personal property of express, transportation, and stage companies must be listed and assessed in the county, town, or district where such the property is usually kept.

(3) The personal property ~~and franchises~~ of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

Insert: "Section 5. Section 15-8-405, MCA, is amended to read:

"15-8-405. **Street railroads, bridges, and ferries.** Street railroads, and bridges, and ferries ~~and their franchises~~ owned by persons or corporations must be listed and assessed in the county, town, or district where such the property or any portion thereof of the property is located, ~~and the~~ The track of the railroad and the bridge are personal property."

Insert: "Section 6. Section 15-8-406, MCA, is amended to read:

"15-8-406. **Assessment of public utilities in one county.** Railroads operated or situated in one county; telegraph, telephone, and electric light lines and similar properties situated in one county ~~and their franchises;~~ and canals, ditches, and flumes situated in one county ~~and the franchises of the same~~ must be listed and assessed in the county in which such the property is located, ~~and the~~ The department ~~of revenue must~~ shall require the owner of such the property or his the owner's agent or any officer of a corporation owning the same the

property to make a verified statement containing a list of the number of miles such on which the property is operated or situated in the county and the value thereof of the property."

Insert: "Section 7. Section 15-8-407, MCA, is amended to read:

"15-8-407. ~~Railroads and other franchises.~~ (1) The ~~franchise,~~ roadway, roadbed, rails, rolling stock, and all other operating property of ~~all railroads~~ a railroad operated in more than one county or more than one state must be assessed by the department of revenue as ~~hereinafter~~ provided in Title 15, chapter 23, part 2.

~~(2) Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business."~~

Insert: "Section 8. Section 15-23-101, MCA, is amended to read:

"15-23-101. **Properties centrally assessed.** The department ~~of revenue~~ shall centrally assess each year:

(1) the ~~franchise,~~ roadway, roadbeds, rails, rolling stock, and all other operating property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, ~~(not including rural electric cooperatives);~~

(3) all property of scheduled airlines;

(4) the net proceeds of mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."

Insert: "Section 9. Section 15-23-202, MCA, is amended to read:

"15-23-202. **Assessment -- how made.** (1) The department ~~must~~ shall assess the ~~franchise,~~ roadway, roadbed, rails, rolling stock, and all other operating properties of ~~all railroads~~ a railroad operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using ~~the same~~ it. Assessment must be made to the person owning or leasing or using the ~~same~~ rolling stock and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space

covered by the right-of-way and all other property owned or leased by ~~such a person, except as above provided, shall~~ must be assessed by the department.

(2) In determining the taxable value of railroad property, the department shall determine the percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended.""

Insert: "Section 10. Section 15-23-303, MCA, is amended to read:

"15-23-303. **Assessment of property -- apportionment to counties.** The department ~~must~~ shall assess all the ~~properties~~ property described in 15-23-301, but franchises ~~granted by the United States must~~ may not be assessed. The value of ~~such properties~~ property for assessment purposes ~~shall~~ must be determined upon ~~such factors as~~ that the department considers proper.""

Insert: "NEW SECTION. Section 12. **Repealer.** Section 15-8-403, MCA, is repealed."

Insert: "NEW SECTION. Section 13. **Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1]."

Insert: "NEW SECTION. Section 14. **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. Section 15. **Effective date -- applicability.** [This act] is effective January 1, 2000, and applies to property tax years beginning after December 31, 1999."

- END -

Amendments to Senate Bill No. 111  
1st Reading Copy

EXHIBIT 1  
DATE 4/8/99  
SB 111

For the House Taxation Committee

Prepared by Jeff Martin  
April 8, 1999 (7:04AM)

1. Title, page 1, line 5.

Strike: "ALL"

Strike: ", EXCEPT"

2. Title, line 6 through line 7.

Strike: "THAT SPECIFICALLY TAXED," on line 6

Strike: "EXEMPTING" on line 6 through "PROPERTY;" on line 7

3. Title, page 1, line 8.

Strike: "SECTION 15-6-201"

Insert: "SECTIONS 15-1-101, 15-8-201, 15-8-404, 15-8-405, 15-8-406, 15-8-407, 15-23-101, 15-23-202, and 15-23-303"

4. Title, page 19, line 9.

Following: "MCA,"

Insert: "REPEALING SECTION 15-8-403, MCA;"

5. Page 1, line 14 through page 12, line 12.

Strike: everything after the enacting clause

**NEW SECTION. Section 1. Intangible personal property exemption.** (1) Intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissary notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill."

Insert: "**Section 2.** Section 15-1-101, MCA, is amended to read:

**15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities,

95

livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when

the wheels are removed.

(j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in [section 1].

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(s) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(u) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification means the state tax appeal board."

{ Internal References to 15-1-101:

|            |           |           |           |
|------------|-----------|-----------|-----------|
| 15-1-201   | 15-6-133  | 15-6-134  | 15-6-145  |
| 15-6-145   | 15-6-145  | 15-7-202  | 15-7-202  |
| 15-8-201   | 15-16-202 | 15-24-202 | 15-24-901 |
| 20-15-403  | 61-1-513  | 61-3-303  | 61-3-503  |
| 69-12-331} |           |           |           |

**Insert: "Section 3.** Section 15-8-201, MCA, is amended to read:

**"15-8-201. General assessment day.** (1) The department shall, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

- (a) motor vehicles;
  - (b) motor homes, travel trailers, and campers;
  - (c) watercraft;
  - (d) livestock;
  - (e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate;
  - (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and
  - (g) property subject to the provisions of 15-16-203.
- ~~(6) Credits must be assessed as provided in 15-1-101(i)-(f)."~~

"Section 4. Section 15-8-404, MCA, is amended to read:

**"15-8-404. Property of particular types of firms.** (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his the business is carried on.

(2) The personal property of express, transportation, and stage companies must be listed and assessed in the county, town, or district where such the property is usually kept.

(3) The personal property ~~and franchises~~ of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

{Internal References to 15-8-404: None.}

**Insert: "Section 5.** Section 15-8-405, MCA, is amended to read:

**"15-8-405. Street railroads, bridges, and ferries.** Street railroads, and bridges, and ferries ~~and their franchises~~ owned by persons or corporations must be listed and assessed in the county, town, or district where such the property or any portion thereof of the property is located, and the ~~The~~ track of the railroad and the bridge are personal property."

**Insert: "Section 6.** Section 15-8-406, MCA, is amended to read:

**"15-8-406. Assessment of public utilities in one county.** Railroads operated or situated in one county; telegraph, telephone, and electric light lines and similar properties situated in one county ~~and their franchises;~~ and canals, ditches, and flumes situated in one county ~~and the franchises of the same~~ must be listed and assessed in the county in which such the property is located, and the ~~The~~ department of revenue ~~must~~ shall require the owner of such the property or his the owner's agent or any officer of a corporation owning the ~~same the~~ property to make a verified statement containing a list of the number of miles such on which the property is operated or situated in the county and the value thereof of the property."

{Internal References to 15-8-406: None.}

**Insert: "Section 7.** Section 15-8-407, MCA, is amended to read:

**"15-8-407. Railroads and other franchises.** ~~(1) The franchise, roadway, roadbed, rails, rolling stock, and all other operating property of all railroads~~ a railroad operated in more than one county or more than one state must be assessed by the department of revenue as hereinafter provided in Title 15, chapter 23, part 2.

~~(2) Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business."~~

**Insert: "Section 8.** Section 15-23-101, MCA, is amended to read:

**"15-23-101. Properties centrally assessed.** The department ~~of revenue~~ shall centrally assess each year:

(1) the ~~franchise, roadway, roadbeds, rails, rolling stock,~~ and all other operating property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, ~~(not including rural electric cooperatives);~~

(3) all property of scheduled airlines;

(4) the net proceeds of mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."

**Insert: "Section 9.** Section 15-23-202, MCA, is amended to read:

**"15-23-202. Assessment -- how made.** (1) The department ~~must~~ shall assess the ~~franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads~~ a railroad operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using ~~the same~~ it. Assessment must be made to the person owning or leasing or using the ~~same~~ rolling stock and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by ~~such a person, except as above provided, shall~~ must be

assessed by the department.

(2) In determining the taxable value of railroad property, the department shall determine the percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended.""

**Insert:** "Section 10. Section 15-23-303, MCA, is amended to read:

**"15-23-303. Assessment of property -- apportionment to counties.** The department ~~must~~ shall assess all the ~~properties~~ property described in 15-23-301, but franchises ~~granted by the United States must~~ may not be assessed. The value of ~~such properties~~ property for assessment purposes ~~shall~~ must be determined upon ~~such~~ factors ~~as~~ that the department considers proper.""

**Insert:** "NEW SECTION. Section 12. **Repealer.** Section 15-8-403, MCA, is repealed."

**Insert:** "NEW SECTION. Section 13. **Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1]."

**Insert:** "NEW SECTION. Section 14. **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

**Insert:** "NEW SECTION. Section 15. **Effective date -- applicability.** [This act] is effective January 1, 2000, and applies to property tax years beginning after December 31, 1999."

- END -

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL VOTE

BILL NO. SB 111

DATE OF MEETING 4/8/99

MOTION: \_\_\_\_\_

*Amendment*

*passed*

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       | /   |    |         |
| Rep. Orr         | /   |    |         |
| Rep. Schmidt     | /   |    |         |
| Rep. Holden      | /   |    |         |
| Rep. Rose        | /   |    |         |
| Rep. Guggenheim  | /   |    |         |
| Rep. Jackson     | /   |    |         |
| Rep. Harrington  |     | /  |         |
| Rep. Dale        | /   |    |         |
| Rep. Sommerville | /   |    |         |
| Rep. Erickson    | /   |    |         |
| Rep. Rehbein     | /   |    |         |
| Rep. Beck        | /   |    |         |
| Rep. Davies      | /   |    |         |
| Rep. Fuchs       | /   |    |         |
| Rep. Harper      |     | /  |         |
| Rep. Hanson      | /   |    |         |
| Rep. Raney       |     | /  |         |
| Rep. Gillan      | /   |    |         |
| Rep. Hibbard     | /   |    |         |

*14 3*

# HOUSE TAXATION COMMITTEE - 1999

## ROLL CALL VOTE

BILL NO. SB 111

DATE OF MEETING 4/9/99

MOTION: Do Concur As Amended -

| NAME             | YES | NO | ABSTAIN |
|------------------|-----|----|---------|
| Rep. Story       |     |    |         |
| Rep. Orr         |     |    |         |
| Rep. Schmidt     |     |    |         |
| Rep. Holden      |     |    |         |
| Rep. Rose        |     |    |         |
| Rep. Guggenheim  |     |    |         |
| Rep. Jackson     |     |    |         |
| Rep. Harrington  |     |    |         |
| Rep. Dale        |     |    |         |
| Rep. Sommerville |     |    |         |
| Rep. Erickson    |     |    |         |
| Rep. Rehbein     |     |    |         |
| Rep. Beck        |     |    |         |
| Rep. Davies      |     |    |         |
| Rep. Fuchs       |     |    |         |
| Rep. Harper      |     |    |         |
| Rep. Hanson      |     |    |         |
| Rep. Raney       |     |    |         |
| Rep. Gillan      |     |    |         |
| Rep. Hibbard     |     |    |         |

*Vote  
Vote*

*16/4*

*103*

COMMITTEE ABSENTEE BALLOT

Date:

4/9/99

I hereby authorize Rep. Slattery

to cast my vote(s) as follows:

|        |   |     |       |     |      |
|--------|---|-----|-------|-----|------|
| SB-111 | - | Yes | Amend | Yes | Bill |
| SB 454 |   | Yes | Amend | Yes | Bill |
| SB 487 |   | Yes | Amend | Yes | Bill |
| SB 491 |   | No  |       |     |      |
| SB 532 |   | Yes |       |     |      |

Representative

Richard T. Dale

COMMITTEE ABSENTEE BALLOT

Date: 4/9/99

I hereby authorize Rep. Story

to cast my vote(s) as follows:

|           |     |       |     |       |
|-----------|-----|-------|-----|-------|
| SB -111 - | Yes | Amend | Yes | B. 11 |
| SB 434    | Yes | Amend | Yes | B. 11 |
| SB 487    | Yes | Amend | Yes | B. 11 |
| SB 441    | Yes |       |     |       |
| SB 532    | Yes |       |     |       |

Representative Dan Fuhs

# COMMITTEE ABSENTEE BALLOT

Date: 4/8/09

I hereby authorize Rep. Stacy

to cast my vote(s) as follows:

|        |     |       |            |
|--------|-----|-------|------------|
| SB 111 | Yes | Amend | Yes - Bill |
| SB 434 | Yes | Amend | Yes - Bill |
| SB 487 | Yes | Amend | Yes - Bill |
| SB 441 | Yes |       |            |
| SB 502 | Yes |       |            |

Representative John L Holder

**INDEX TO BILLS IN COMMITTEE**

July 02, 1999

**- Committee: (S) Free Conference -**

02:28 PM

- SB 33**      **SPONSOR:** Thomas, Fred      **SHORT TITLE:** Generally revise laws governing prisons & prisoners  
                 **BY REQUEST OF:** Department Of Corrections  
                 **REFERRED ON:** 04/09/1999      **HEARD ON:** 04/13/1999  
                 **FINAL DISPOSITION** 04/29/1999 Chapter Number Assigned
- 
- SB 79**      **SPONSOR:** Swysgood, Chuck      **SHORT TITLE:** Impose a 6-mill levy for support of the University System  
                 **REFERRED ON:** 03/05/1999      **HEARD ON:** 03/10/1999  
                 **FINAL DISPOSITION** 04/22/1999 Chapter Number Assigned
- 
- SB 81**      **SPONSOR:** Harp, John      **SHORT TITLE:** Establish children's health insurance program  
                 **BY REQUEST OF:** Governor  
                 **REFERRED ON:** 04/15/1999      **HEARD ON:** 04/16/1999  
                 **HEARD ON:** 04/17/1999  
                 **FINAL DISPOSITION** 05/07/1999 Chapter Number Assigned
- 
- SB 96**      **SPONSOR:** Stang, Spook      **SHORT TITLE:** Modify provisions governing protest of changes in municipal zoning regulations  
                 **BY REQUEST OF:** Environmental Quality Council  
                 **REFERRED ON:** 04/07/1999      **HEARD ON:** 04/12/1999  
                 **FINAL DISPOSITION** 04/29/1999 Chapter Number Assigned
- 
- SB 97**      **SPONSOR:** Stang, Spook      **SHORT TITLE:** Generally revise laws relating to local planning and subdivision review  
                 **BY REQUEST OF:** Environmental Quality Council  
                 **REFERRED ON:** 04/08/1999      **HEARD ON:** 04/12/1999  
                 **REFERRED ON:** 04/19/1999      **HEARD ON:** 04/19/1999  
                 **FINAL DISPOSITION** 05/10/1999 Chapter Number Assigned
- 
- SB 111**      **SPONSOR:** DePratu, Bob      **SHORT TITLE:** Exempting intangible personal property from taxation  
                 **BY REQUEST OF:** Revenue Oversight Committee  
                 **REFERRED ON:** 04/15/1999      **HEARD ON:** 04/16/1999  
                 **HEARD ON:** 04/16/1999  
                 **FINAL DISPOSITION** 05/10/1999 Chapter Number Assigned
- 

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## SENATE BILL NO. 111

INTRODUCED BY B. DEPRATU

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING ALL INTANGIBLE PERSONAL PROPERTY, ~~EXCEPT THAT SPECIFICALLY TAXED,~~ FROM PROPERTY TAXATION; ~~EXEMPTING THE FIRST \$1 MILLION OF VALUE OF TAXABLE INTANGIBLE PROPERTY;~~ AMENDING SECTIONS ~~15-1-101, 15-8-201, 15-8-405, 15-8-407, 15-23-101, 15-23-202, 15-23-303, AND 20-15-403~~ SECTION 15-6-201 SECTIONS 15-1-101, 15-8-201, 15-8-404, 15-8-405, 15-8-406, 15-8-407, 15-23-101, 15-23-202, AND 15-23-303, MCA; ~~REPEALING SECTIONS 15-6-204 AND 15-8-403, MCA;~~ REPEALING SECTION 15-8-403, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

**THERE ARE NO CHANGES IN THIS BILL AND  
IT WILL NOT BE REPRINTED. PLEASE REFER TO  
2ND RD--2ND HOUSE COPY (TAN) FOR COMPLETE TEXT.**

APPROVED BY  
COMM ON TAXATION

SENATE BILL NO. 111

INTRODUCED BY B. DEPRATU

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING ~~ALL~~ INTANGIBLE PERSONAL PROPERTY, ~~EXCEPT THAT SPECIFICALLY TAXED,~~ FROM PROPERTY TAXATION; ~~EXEMPTING THE FIRST \$1 MILLION OF VALUE OF TAXABLE INTANGIBLE PROPERTY;~~ AMENDING SECTIONS ~~15-1-101, 15-8-201, 15-8-405, 15-8-407, 15-23-101, 15-23-202, 15-23-303, AND 20-15-403~~ SECTION 15-6-201 SECTIONS ~~15-1-101, 15-8-201, 15-8-404, 15-8-405, 15-8-406, 15-8-407, 15-23-101, 15-23-202, AND 15-23-303,~~ MCA; ~~REPEALING SECTIONS 15-6-204 AND 15-8-403, MCA;~~ REPEALING SECTION 15-8-403, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Intangible personal property exemption.** (1) Intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissary notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill.

**Section 2.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for

1 commercial purposes; and

2 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

3 (b) The term "assessed value" means the value of property as defined in 15-8-111.

4 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and  
5 the profit margin shown in national appraisal guides and manuals or the valuation schedules of the  
6 department.

7 (d) (i) The term "commercial", when used to describe property, means property used or owned  
8 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income,  
9 except property described in subsection (1)(d)(ii).

10 (ii) The following types of property are not commercial:

11 (A) agricultural lands;

12 (B) timberlands and forest lands;

13 (C) single-family residences and ancillary improvements and improvements necessary to the  
14 function of a bona fide farm, ranch, or stock operation;

15 (D) mobile homes and manufactured homes used exclusively as a residence except when held  
16 by a distributor or dealer as stock in trade;

17 (E) all property described in 15-6-135; and

18 (F) all property described in 15-6-136.

19 (e) The term "comparable property" means property that:

20 (i) has similar use, function, and utility;

21 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
22 factors; and

23 (iii) has the potential of a similar highest and best use.

24 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

25 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
26 provided for in 2-15-1301.

27 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
28 2-15-2501.

29 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
30 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other

1 natural gas found in any coal formation.

2 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated  
3 upon, erected upon, or affixed to land. When the department determines that the permanency of location  
4 of a mobile home, manufactured home, or housetrailer has been established, the mobile home,  
5 manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home,  
6 manufactured home, or housetrailer may be determined to be permanently located only when it is  
7 attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

8 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes  
9 located on land owned by another person. This property is assessed under the appropriate classification,  
10 and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on  
11 leasehold improvements are a lien only on the leasehold improvements.

12 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
13 bison, ostriches, rheas, emus, and domestic ungulates.

14 (l) The term "manufactured home" means a residential dwelling built in a factory in accordance  
15 with the United States department of housing and urban development code and the federal Manufactured  
16 Home Construction and Safety Standards. A manufactured home does not include a mobile home, as  
17 defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a  
18 mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety  
19 Standards went into effect on June 15, 1976.

20 (m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or  
21 "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to  
22 another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to  
23 8 feet in width or 45 feet in length used as a principal residence.

24 (n) The term "personal property" includes everything that is the subject of ownership but that is  
25 not included within the meaning of the terms "real estate" and "improvements" and "intangible personal  
26 property" as that term is defined in [section 1].

27 (o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
28 domestication to produce food or feathers.

29 (p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters  
30 and things, real, personal, and mixed, capable of private ownership. This definition may not be construed

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1 to authorize the taxation of the stocks of a company or corporation when the property of the company  
2 or corporation represented by the stocks is within the state and has been taxed.

3 (q) The term "real estate" includes:

4 (i) the possession of, claim to, ownership of, or right to the possession of land;

5 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
6 and Title 15, chapter 23, part 8;

7 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United  
8 States; and

9 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

10 (r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking,  
11 hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

12 (s) "Research and development firm" means an entity incorporated under the laws of this state  
13 or a foreign corporation authorized to do business in this state whose principal purpose is to engage in  
14 theoretical analysis, exploration, and experimentation and the extension of investigative findings and  
15 theories of a scientific and technical nature into practical application for experimental and demonstration  
16 purposes, including the experimental production and testing of models, devices, equipment, materials, and  
17 processes.

18 (t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that  
19 is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a  
20 permanent foundation. Inventory does not have to be located at the business location of a dealer or a  
21 distributor.

22 (u) The term "taxable value" means the percentage of market or assessed value as provided for  
23 in Title 15, chapter 6, part 1.

24 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
25 incorporated town, township, school district, irrigation district, or drainage district or a person, persons,  
26 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

27 (3) The term "state board" or "board" when used without other qualification means the state tax  
28 appeal board."

29  
30 **Section 3.** Section 15-8-201, MCA, is amended to read:

1 "15-8-201. General assessment day. (1) The department shall, between January 1 and the  
2 second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property  
3 subject to taxation in each county.

4 (2) The department shall assess property to:

5 (a) the person by whom it was owned or claimed or in whose possession or control it was at  
6 midnight of the preceding January 1; or

7 (b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met  
8 and the transfer certificate has been received and processed prior to determining the taxes that are due  
9 as provided in 15-10-305(2).

10 (3) The department shall also ascertain and assess all mobile homes arriving in the county after  
11 midnight of the preceding January 1.

12 (4) A mistake in the name of the owner or supposed owner of real property does not invalidate  
13 the assessment.

14 (5) The procedure provided by this section does not apply to:

15 (a) motor vehicles;

16 (b) motor homes, travel trailers, and campers;

17 (c) watercraft;

18 (d) livestock;

19 (e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for  
20 personal property taxes on the date that application is made for a special mobile equipment plate;

21 (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

22 (g) property subject to the provisions of 15-16-203.

23 ~~(6) Credits must be assessed as provided in 15-1-101(1)(f)."~~

24  
25 Section 4. Section 15-8-404, MCA, is amended to read:

26 "15-8-404. Property of particular types of firms. (1) The personal property belonging to the  
27 business of a merchant or of a manufacturer must be listed in the town or district where ~~his~~ the business  
28 is carried on.

29 (2) The personal property of express, transportation, and stage companies must be listed and  
30 assessed in the county, town, or district where ~~such~~ the property is usually kept.

(3) The personal property ~~and franchises~~ of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

Section 5. Section 15-8-405, MCA, is amended to read:

"15-8-405. Street railroads, bridges, and ferries. Street railroads, ~~and bridges,~~ and ferries ~~and their franchises~~ owned by persons or corporations must be listed and assessed in the county, town, or district where ~~such the~~ property or any portion ~~thereof~~ of the property is located; ~~and the~~ The track of the railroad and the bridge are personal property."

Section 6. Section 15-8-406, MCA, is amended to read:

"15-8-406. Assessment of public utilities in one county. Railroads operated or situated in one county; telegraph, telephone, and electric light lines and similar properties situated in one county ~~and their franchises;~~ and canals, ditches, and flumes situated in one county ~~and the franchises of the same~~ must be listed and assessed in the county in which ~~such the~~ property is located; ~~and the~~ The department of revenue ~~must~~ shall require the owner of ~~such the~~ property or ~~his~~ the owner's agent or any officer of a corporation owning the ~~same the~~ property to make a verified statement containing a list of the number of miles ~~such on which the~~ property is operated or situated in the county and the value thereof ~~on the~~ property."

Section 7. Section 15-8-407, MCA, is amended to read:

"15-8-407. Railroads ~~and other franchises~~. ~~{1}~~ The ~~franchise,~~ roadway, roadbed, rails, rolling stock, and all other operating property of ~~all railroads~~ a railroad operated in more than one county or more than one state must be assessed by the department of revenue as ~~hereinafter~~ provided in Title 15, chapter 23, part 2.

~~{2} Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business."~~

1           **Section 8.** Section 15-23-101, MCA, is amended to read:

2           **"15-23-101. Properties centrally assessed.** The department ~~of revenue~~ shall centrally assess each  
3       year:

4           (1) the ~~franchise~~, roadway, roadbeds, rails, rolling stock, and all other operating property of  
5       railroads and railroad car companies operating in more than one county in the state or more than one  
6       state;

7           (2) property owned by a corporation or other person operating a single and continuous property  
8       operated in more than one county or more than one state, including telegraph, telephone, microwave,  
9       electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties  
10      and including, if congress passes legislation that allows the state to tax property owned by an agency  
11      created by congress to transmit or distribute electrical energy, property constructed, owned, or operated  
12      by a public agency created by the congress to transmit or distribute electric energy produced at privately  
13      owned generating facilities, {not including rural electric cooperatives};

14          (3) all property of scheduled airlines;

15          (4) the net proceeds of mines;

16          (5) the gross proceeds of coal mines; and

17          (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15,  
18      chapter 24, part 12."

19  
20           **Section 9.** Section 15-23-202, MCA, is amended to read:

21           **"15-23-202. Assessment -- how made.** (1) The department ~~must~~ shall assess the ~~franchise~~,  
22      roadway, roadbed, rails, rolling stock, and all other operating properties of ~~all railroads~~ a railroad operated  
23      in more than one county or more than one state. All rolling stock must be assessed in the name of the  
24      person owning, leasing, or using ~~the same~~ it. Assessment must be made to the person owning or leasing  
25      or using the ~~same~~ rolling stock and must be made upon the entire railroad within the state. The depots,  
26      stations, shops, and buildings erected upon the space covered by the right-of-way and all other property  
27      owned or leased by ~~such a person, except as above provided, shall~~ must be assessed by the department.

28           (2) In determining the taxable value of railroad property, the department shall determine the  
29      percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the  
30      federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

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**Section 10.** Section 15-23-303, MCA, is amended to read:

**"15-23-303. Assessment of property -- apportionment to counties.** The department ~~must~~ shall assess all ~~the properties~~ property described in 15-23-301, but franchises ~~granted by the United States~~ must may not be assessed. The value of ~~such properties~~ property for assessment purposes ~~shall~~ must be determined upon ~~such factors as~~ that the department considers proper."

NEW SECTION. **Section 11. Repealer.** Section 15-8-403, MCA, is repealed.

NEW SECTION. **Section 12. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

NEW SECTION. **Section 13. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 14. Effective date -- applicability.** [This act] is effective January 1, 2000, and applies to property tax years beginning after December 31, 1999.

- END -

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **FREE CONFERENCE COMMITTEE ON SB 111**

**Call to Order:** By **CHAIRMAN BOB DePRATU** , on April 16, 1999 at 8:00 A.M., in Room 405 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Bob DePratu, Chairman (R)  
Sen. Gerry Devlin (R)  
Sen. Mike Halligan (D)  
Rep. Chase Hibbard (R)  
Rep. Roger Somerville (R)  
Rep. Dan Harrington (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Lee Heiman, Legislative Branch  
Jyl Scheel, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 111, 4/16/1999  
Executive Action: None.

**SENATOR DePRATU** opened the meeting by introducing **SB 111**, the intangible bill. There are a lot of thoughts and ideas that have been put into this bill. There have been a lot of concerns worked on very hard by both Houses and it is now coming down the road toward being in its final form. He felt there was consensus on the idea that main street intangibles are exempt. There are questions remaining on centrally assessed and whether that should be phased in or all at once as well as timing. These are areas of disagreement between the Department of Revenue and the folks from Centrally Assessed.

He stated the committee would recess at 9:00 a.m. and resume again at 2:00 p.m. He opened up the meeting to comments from the committee and comments from the public.

**COMMENTS FROM THE COMMITTEE:** None.

**COMMENTS FROM THE PUBLIC:**

**Dennis Burr, Montana Taxpayers Association,** stated the companies that pay this tax are familiar with the problems and the cost of totally exempting intangibles immediately. They are perfectly willing to see this type of exemption phased in. He felt they could not exempt local and not exempt centrally assessed intangibles. They have to go together and there is a serious constitutional problem if they do not. A phase in is acceptable to these companies to minimize the monetary affect, particularly in this biennium. They suggest a phase in over a period of three years and would like to see that begin in the second year of this biennium rather than putting it off until after the next legislature meets. If it is legislation this session, it makes sense to have it take effect during this biennium.

To minimize the cost, they suggest phasing in the exemption of only 10% of intangibles during the second year of this biennium. With a fiscal note of \$9 million dollars, ten percent is \$900,000 state and local and about \$300,000 General Fund. That should be in a range this legislative session can afford. The rest will be phased in the next biennium.

**Mick Robinson, Governors Office,** stated, from their perspective, they agree to trying to enter into some phase out of this particular issue. Their concern has been for the financial impact for this particular biennium. As they try to balance the budget and get out of here with a reasonable fund balance, he does not see where there is the financial flexibility to include any more downward pressure on the fund balance at this particular point in time. The Administration is struggling, at this point, with **HB 2** in order to achieve some of the appropriation goals they are looking for. The legislators serving on that Conference Committee are telling them there is no more money and that has to be kept in mind when talking about a tax expenditure. We have to fully understand the impact of a phase out in this biennium is going to have on any fund balance. He gives that as a caution to the committee.

**Mary Bryson, Director, Department of Revenue,** stated they have a series of amendments they would like to offer to the committee that have been basically agreed to between the industry folks and the Department and the Administration. The only difference has

to do with the timing of the starting the phase down and implementation of exemption on intangible personal property. They will get them to Lee prior to 2:00 p.m. meeting.

**Jim Mockler, Montana Coal Council**, asked that the committee exercise extreme caution in the definitions and the intent included because centrally assessed also includes the gross proceeds of coal. He knows it is not the committee's intent that those parts be included in this bill. The Coal Council has never been a part of intangibles. He would encourage caution to be sure those people included in centrally assessed, such as the gross proceeds of coal, are not included in any way in the fiscal impact.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 8.6; Comments : None.}

**QUESTIONS FROM THE COMMITTEE:**

**SENATOR HALLIGAN** questioned the difference in the Department's amendments compared to **Mr. Burr** testimony regarding the phase down and cost? **Ms. Bryson** stated their amendments provide for an exemption for intangible personal property which is centrally assessed and phase that in over three years. The difference is the beginning tax year. They begin the phase down in tax year 2001, which is Fiscal Year 2002. The companies would prefer they begin the phase down in tax year 2000 which would be FY 2001. Their suggestion is to begin that with a 10% phase down in 2001 and then phase down over the next two succeeding years in equal increments of 45%. **SEN. HALLIGAN** asked what percentage the phase down started with in **SEN. DePRATU'S** amendments? **Ms. Bryson** stated 10%.

**SENATOR DePRATU** questioned how the Department's amendment related to **Mr. Mockler's** concern? **Ms. Bryson** stated they were just talking about centrally assessed costs and would not effect his company.

**SENATOR DEVLIN** questioned what would be done in 2000 according to the Department's amendments? **Ms. Bryson** stated in FY 2000 they would be writing rules and working with companies to determine valuation methodology that would be adopted to determine the value of intangibles. They would have that done for tax year 2000. They would implement the phase down, taking that intangible personal property out of the value of those companies, over a three year period beginning in tax year 2001. **SEN. DEVLIN** asked if it was 10% in 2001? **Ms. Bryson** stated it was 33%, then 67% and 100% beginning in FY 2003. **SEN. DEVLIN** questioned in what fiscal year did they give the first reduction? **Ms. Bryson**

stated FY 2002 at 33%. The phase down equals one-third, then two-thirds and then 100% so it is one-third more each year to get to 100% phase out of the intangible value. **SEN. DEVLIN** said in 2002 the first reduction would be 33%, in 2003 the reduction would be 67% and in 2004 it would equal 100%.

**REPRESENTATIVE HIBBARD** stated he was reviewing the 1/19/99 Fiscal Note which showed a \$3.3 million dollar impact on the General Fund balance and that is if intangibles were totally exempt. How did the Department arrive at the value of the intangibles? How does the committee know how much intangibles are in centrally assessed? **Ms. Bryson** stated in rounding out that figure, they took the different methods they used to calculate value and market value for the various centrally assessed and compared the correlated system value and compared that to cost value. They made the assumption the difference was the intangible value.

**REP. HIBBARD** stated the correlated system value is equivalent to the final market value. The market value less the cost value equals the intangible value.

**Ms. Bryson** stated the difference between the \$10.8 million and \$9.5 is that centrally assessed grows at about 2% per year so they project the growth in and would be the loss for 2001.

**REPRESENTATIVE HIBBARD** asked for an opinion about the value of intangibles. **Mr. Burr** stated it is hard to criticize the numbers that says you don't know what intangibles are nor the value of them. Their method of estimating is probably as good as any. He is not totally convinced that all the difference is intangible when a unit value is higher than a cost factor. The way these companies are assessed on the three factors, you meld them together and come up with a market value for the company. It may be that it might be higher than the cost of the physical property they have and that may not necessarily all be intangible value. That is what the Department and the companies have to figure out before the phase down happens. Intangibles are things like blue sky, good will, proprietary software and things like that. It is hard to think that things like pipelines 16% of their total value is intangibles when 4%-5% of things like telephone and electric companies are generally considered intangible.

**REPRESENTATIVE HIBBARD** stated if the Department amendments were adopted they had said they would use the first year to value intangibles. Is that correct? **Ms. Bryson** referred to Amendment #4 (4). They will be spending from now until January 1, 2000, writing rules and working with companies to establish a methodology and then spend from January 1 to June, 2000, doing the valuation they do for centrally assessed properties. **REP. HIBBARD** questioned if they would try to come up with a different method to determine what the intangibles are other than the

market less cost equals intangibles? **Ms. Bryson** stated it was their agreement and reasonable to say, that if they are going to be removing value from the companies total property value, that they should all agree upon what the value is that will be removed from their value. They agreed they should move forward as well as identifying what the intangibles were and possibly attaching a value to those. That would be the methodology that would be discussed and agreed to by both the companies and the Department through the rule making process.

**REPRESENTATIVE SOMERVILLE** asked for a spreadsheet on the calculations for the intangible values for PTI and Yellowstone Pipeline in reference to Item #4 of the 1/19/99 Fiscal Note by 1:00 p.m. today. **Ms. Bryson** said they would provide that.

**SENATOR HALLIGAN** questioned how does the bill proceeding through the process, that does the formula for centrally assessed railroads deal with intangibles? **Gene Walborn, Department of Revenue**, stated the bill is on its way. That bill establishes a formula for arriving at a market value for railroads. In that market value would be included intangible personal property and the Department and the railroads will have to figure out a way to deduct that value out also. **SEN. HALLIGAN** stated he assumed they have looked at other states and professional standards fouled by tax professionals in various departments. How are intangibles dealt with either in formulas or in statute or otherwise? **Mr. Walborn** stated he felt it is a mixed bag. It is handled through tax code or administrative rule or put through methodology. There is some tax administration standards out there they will definitely look into as they develop their approach and methodology for valuing intangibles.

**SENATOR HALLIGAN** questioned could the phase in prompt litigation and how would that be dealt with? **Dave Woodgerd, Department of Revenue**, stated that is an issue they are trying to figure out. From their point of view, they do anticipate litigation out of this bill. They would proceed with administrative rules and with trying to talk with all the companies to discuss with each segment of this population, i.e. railroads, the pipelines, telecommunications, etc., to talk about the methodology and negotiate an agreement and hopefully adopt rules that would be agreed upon. They will do the best they can to reach an agreement and if that is not possible they anticipate litigation. **SEN. HALLIGAN** questioned if everyone would be included in the rule making process from main street to centrally assessed or will there still be some intangibles? **Mr. Woodgerd** stated under this bill all intangibles are exempt with the exception of centrally assessed.

**SENATOR DEVLIN** questioned if the Department came up with amendments or who dreamed them up? **REP. HIBBARD** stated occasionally the House makes some minor adjustments to bills that come over from Senate Tax and this is one of those bills. They had considerable testimony in House Tax that pointed some problems. The public had some time to reflect on the \$1 million cap placed in the bill when it came over from the Senate and also some things that were not exempt by contracts and contract rights, licenses other than non-transferrable licenses granted by a government. House Tax took the approach they would try to exempt intangibles altogether and make the definition as broad as possible.

**SENATOR DEVLIN** questioned is centrally assessed the only thing the Department would be phasing in now? **Ms. Bryson** said yes. **SEN. DEVLIN** asked if the menu this bill started out with is all gone? **Ms. Bryson** stated the bill in it's current form exempts intangible personal property from taxation. **SEN. DEVLIN** questioned if a store had a mom and pop name like the Parrot downtown, would they get a tax just because their name was the Parrot because they are not centrally assessed? **Ms. Bryson** said no. **SEN. DEVLIN** said when that section is taken out, everything that is not centrally assessed, what is the approximate cost of that? **Ms. Bryson** said they do not currently value intangible personal property. **SEN. DEVLIN** said there is no impact for that at all. **Ms. Bryson** said it is a tax they currently do not collect.

**SENATOR DEVLIN** questioned what the other states surrounding us, like Wyoming, North and South Dakota, do on these type of intangibles? **Ms. Bryson** stated she did not know currently. She did know Washington was struggling with this very question. They would provide the committee with that information.

**SENATOR HALLIGAN** said he anticipated it would take some relatively intensive hearings and negotiations to draft the rules and he would like to make sure the Department has a chance to do it right. He realizes some want the phase in starting this session but he would rather not have litigation associated with the phase in that causes industry more problem. It seems more prudent to wait the extra year as a quicker phase in can happen if using the Department's approach with their amendments. He asked for thoughts on the litigation cloud. **Mr. Burr** does not believe there will be litigation if the phase in is started in 2000 or 2001. If a bill were passed to exempt locally assessed intangibles and tax centrally assessed intangibles then he feels there would be litigation. It would be an equal protection litigation and the state would lose. The major companies understand the cost implications to this legislature. He does

not think it will cause litigation as long as there is a phase in.

**REPRESENTATIVE SOMERVILLE** stated during discussion in the House he was informed there were already a couple of people who had started a lawsuit against Montana over this particular issue. One was Montana Power Company and that their papers had already been drawn, is that correct? **Mr. Woodgerd** stated there is something in the administrative process involving the Montana Power Company and the Kerr Dam license situation.

**SENATOR DEVLIN** stated other than centrally assessed, this has an immediate effective date, is that correct? Does it disappear upon passage of this bill? **REP. HIBBARD** stated currently nothing is being taxed in the intangibles area and there is nothing in this bill that would change that. **SEN. DEVLIN** stated this bill is telling the Department they are not going to tax those intangibles outside of centrally assessed. He wonders when that takes effect? **Ms. Bryson** stated the effective date in Section 14 is January 1, 2000. The rest of the effective date, since it is not specified, would be October 1. **SEN. DEVLIN** questioned if the Department would have any objection to an immediate effective date on that part? **Ms. Bryson** said that is correct and in fact they would welcome it.

**SENATOR HALLIGAN** questioned if the Department's amendments had been handed out? **Ms. Bryson** said she would get copies to Lee Heiman.

**SENATOR DePRATU** said he will be presenting some amendments with a different timing on the phase in, otherwise it would be identical to the Department's. He felt an amendment should be drawn up to reflect **SEN. DEVLIN'S** concern regarding upon passage and approval as far as the non-centrally assessed intangibles are concerned. He requested the spreadsheets from the Department for **REP. SOMMERSVILLE'S** request. He would also like information on what the other states are doing. He requested the Department supply this information by 1:00 p.m.

{Tape : 1; Side : A; Approx. Time Counter : 8.6 - 38; Comments : None.}

ADJOURNMENT

Adjournment: 8:40 A.M.



SEN. BOB DePRATU, Chairman



JYL SCHEEL, Secretary

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**FREE CONFERENCE COMMITTEE ON SB 111**

**Call to Order:** By **CHAIRMAN BOB DePRATU**, on April 16, 1999 at 2:10 P.M., in Room 405 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Bob DePratu, Chairman (R)  
Sen. Gerry Devlin (R)  
Sen. Mike Halligan (D)  
Rep. Chase Hibbard (R)  
Rep. Roger Somerville (R)  
Rep. Dan Harrington (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Lee Heiman, Legislative Branch  
Jyl Scheel, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 111, 4/16/1999  
Executive Action: None.

**SENATOR DePRATU** opened the meeting by asking **Lee Heiman** to explain the amendments.

**Mr. Heiman** stated **SEN. DePRATU'S** amendments SB011108.alh provide for a three year phase in of intangible personal property that is centrally assessed except those that are 15-23-101 (4) and (5), which are the net proceeds of mines and the gross proceeds of Coal Mines and are exempt from the intangibles tax. Those will be effective immediately with the rest phased in over three years. The first 10% would be exempt for the tax year 2000 and two-thirds would be exempt for tax year 2001. From 2002 and thereafter, it is all exempt. The Department, in the new subsection 4, is to make administrative rules to provide for the

valuation of it. Subsection 5 provides the Department report to the new Revenue and Taxation Committee and to the next session of the legislature.

The Department of Revenue's amendments SB011109.alh are the same with the exception of the phase in. The phase in would start one-third in tax year 2001, two-thirds for tax year 2002 and fully exempt in the year 2003 and thereafter. The rest of the amendments are identical.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 1.9; Comments : None.}

**COMMENTS AND QUESTIONS FROM THE COMMITTEE:**

**SENATOR DEVLIN** questioned the Department's amendment and the cost? Is there no cost at all until the next biennium? **SEN. DePRATU** stated that is correct, there is no cost. **SEN. DEVLIN** questioned the cost on **SEN. DePRATU'S** amendment? **SEN. DePRATU** stated the cost would be approximately \$300,000 to the General Fund. He asked the Department to also respond.

**Mary Bryson, Director, Department of Revenue**, stated that is taking 10% of the estimated \$9.5 million which is approximately \$950,000 and saying the allocation between state government and the local jurisdictions represents about \$300,000 to the state General Fund and \$700,000 to Local Government for a total of about \$1,000,000.

**Motion:** **SENATOR HALLIGAN** moved that **SB 111 AMENDMENTS SB011109.ALH BE ADOPTED. EXHIBIT(1).**

**Discussion:**

**SENATOR HALLIGAN** supports the Department of Revenue amendments because the impact on the General Fund is delayed. The next Governor is going to have to develop a budget based on the language in this statute so it is going to be phased in. If we look at the \$300,000 impact now, it is going to come out of someone else's hide. Because of the equal protection issue there is no question there will be a lawsuit if it is not phased in. The responsible thing to do is adopt the Department of Revenue's suggestion for 33% phase in.

**SENATOR DEVLIN** stated he prefers the amendment by **SEN. DePRATU**. He feels there would be less likelihood of a lawsuit if it is in progress. He feels the Department's amendments are stretched out quite aways.

**SENATOR DePRATU** stated he resisted the Department of Revenue's amendment. It is important everything is put into place during this legislative session. He feels it sends the proper messages and lessens the chance of lawsuits as we go along. He wants to work with centrally assessed industries. Therefore he will vote against the Department's amendments.

**REPRESENTATIVE HARRINGTON** supports the Department's amendments and feels those figures should be used. So much has been done and he feels they are still trying to figure out exactly what has been done with all the different figures. He feels it is better to look at this in the interim and see exactly what is going on there.

**Vote:** Motion that **SB 111 AMENDMENTS SB011109.ALH BE ADOPTED.**

**Motion failed 2-4** by Roll Call Vote with **SEN. DePRATU, SEN. DEVLIN, REP. SOMERVILLE, and REP. HIBBARD** voting no.

*{Tape : 1; Side : A; Approx. Time Counter : 1.9 - 5.2; Comments : None.}*

**Motion:** **SENATOR DEVLIN** moved that **SB 111 AMENDMENTS SB011108.ALH BE ADOPTED. EXHIBIT(2).**

**Discussion:**

**SENATOR DEVLIN** stated he feels we need to get this started to ward off any chances of a lawsuit. If we show, in good faith, we are starting the phase in at 10% and then move on, that may thwart any lawsuit that may be forthcoming.

**SENATOR HALLIGAN** stated there is a need to be cautious, especially with a \$300,000 General Fund impact. He feels it could even be higher than that depending on the rules. He is worried about cutting something we don't want to cut.

**SENATOR DePRATU** stated he really believes it needs to be set in place now. He is looking to the industries to work with the Department of Revenue as this is worked through over the next three to four years. He believes it is a good bill overall and it needs this clarification. It is also extremely important for main street businesses to get this into place. In the long run it will make it better for the Revenue Department because it is trying to take controversy out that would arise without this being put to bed. He supports the amendment.

**Vote:** Motion that SB 111 AMENDMENTS SB011108.ALH BE ADOPTED.  
Motion carried 4-2 by Roll Call Vote with SENATOR HALLIGAN and  
REPRESENTATIVE HARRINGTON voting no.

**Motion/Vote:** SENATOR DEVLIN moved to ACCEPT THE FREE CONFERENCE  
COMMITTEE REPORT ON SB 111 AS AMENDED. Motion carried 4-2 with  
SEN. HALLIGAN and REP. HARRINGTON voting no.

SENATOR HALLIGAN questioned when the report would be on the  
Board? SENATOR DePRATU stated he did not think there was time to  
get it on the Board today so would probably be tomorrow.

REPRESENTATIVE SOMERVILLE asked if the Legislative Audit Division  
could look at the implementation of this and include it in their  
evaluation of the Department of Revenue to keep the Revenue and  
Taxation Committee informed on what is taking place.

Ms. Bryson presented information, for the record, of information  
the committee had requested at the morning meeting as per  
EXHIBIT(3) and EXHIBIT(4).

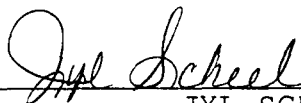
{Tape : 1; Side : A; Approx. Time Counter : 5.2 - 9; Comments :  
None.}

ADJOURNMENT

Adjournment: 2:25 P.M.



SEN. BOB DePRATU, Chairman



JYL SCHEEL, Secretary

**The Law Library has no exhibits for April 16, 1999.**

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Society**



## FREE CONFERENCE COMMITTEE

on Senate Bill 111

Report No. 1, April 16, 1999

Page 1 of 2

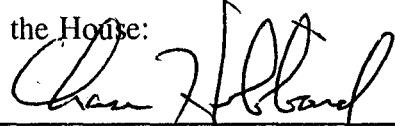
Mr. President and Mr. Speaker:

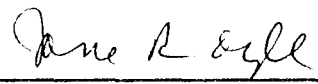
We, your Free Conference Committee met and considered **Senate Bill 111** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:

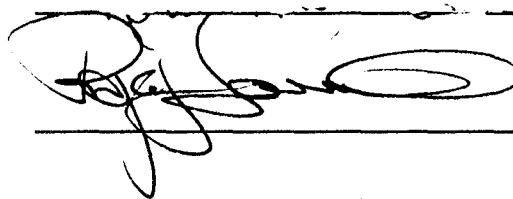
  
Chair

For the House:

  
Chair

  
Amendment Coordinator

  
Secretary of Senate



And, recommend that **Senate Bill 111** (reference copy -- salmon) be amended as follows:

1. Title, line 6.

Following: "TAXATION;"

Insert: "PHASING IN THE EXEMPTION FOR PROPERTY THAT IS CENTRALLY ASSESSED; REQUIRING RULEMAKING TO DETERMINE THE VALUATION METHODOLOGY FOR INTANGIBLE PERSONAL PROPERTY; REQUIRING REPORTS TO THE LEGISLATURE;"

2. Title, line 11.

Strike: "A DELAYED"

ADOPT

REJECT

FCCR #1

SB 111

AC SB 111-1

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131

Insert: "AN IMMEDIATE"  
Strike: "AN"  
Strike: the second "DATE"  
Insert: "DATES"

3. Page 1, line 16.

Strike: second "Intangible"  
Insert: "Except as provided in subsection (3), intangible"

4. Page 1, line 24.

Insert: "(3) The exemption for intangible personal property that is centrally assessed, other than property under 15-23-101(4) and (5), must be phased in over 3 years beginning in tax year 2000. Ten percent of the intangible personal property is exempt for tax year 2000, and two-thirds of the intangible personal property is exempt for tax year 2001. Centrally assessed intangible personal property is fully exempt from taxation in tax year 2002 and thereafter.

(4) The department shall adopt administrative rules prior to valuation determinations for tax year 2000 that specify the valuation methodology for centrally assessed intangible personal property. To the extent that the unit value includes intangible personal property, that value must be removed from the unit value according to the provisions in subsection (3).

(5) The department must report intangible personal property annually to the revenue and taxation interim committee of the Montana legislature and to the Montana legislature meeting in the year 2001."

5. Page 8, line 18.

Strike: "January 1, 2000,"  
Insert: "on passage and approval"

6. Page 8, line 19.

Strike: "applies"  
Insert: "[sections 1 through 7 and 11 through 13] apply"  
Following: "1999."  
Insert: "[Sections 8, 9, and 10] apply to property tax years beginning after December 31, 2002."

- END -



AN ACT EXEMPTING INTANGIBLE PERSONAL PROPERTY FROM PROPERTY TAXATION; PHASING IN THE EXEMPTION FOR PROPERTY THAT IS CENTRALLY ASSESSED; REQUIRING RULEMAKING TO DETERMINE THE VALUATION METHODOLOGY FOR INTANGIBLE PERSONAL PROPERTY; REQUIRING REPORTS TO THE LEGISLATURE; AMENDING SECTIONS 15-1-101, 15-8-201, 15-8-404, 15-8-405, 15-8-406, 15-8-407, 15-23-101, 15-23-202, AND 15-23-303, MCA; REPEALING SECTION 15-8-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Intangible personal property exemption.** (1) Except as provided in subsection (3), intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissary notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill.

(3) The exemption for intangible personal property that is centrally assessed, other than property under 15-23-101(4) and (5), must be phased in over 3 years beginning in tax year 2000. Ten percent of the intangible personal property is exempt for tax year 2000, and two-thirds of the intangible personal property is exempt for tax year 2001. Centrally assessed intangible personal property is fully exempt from taxation in tax year 2002 and thereafter.

(4) The department shall adopt administrative rules prior to valuation determinations for tax year 2000 that specify the valuation methodology for centrally assessed intangible personal property. To the extent that the unit value includes intangible personal property, that value must be removed from the unit value according to the provisions in subsection (3).

(5) The department must report intangible personal property annually to the revenue and taxation interim committee of the Montana legislature and to the Montana legislature meeting in the year 2001.

**Section 2.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in [section 1].

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

- (i) the possession of, claim to, ownership of, or right to the possession of land;
- (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;
- (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(s) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that

is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(u) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification means the state tax appeal board."

**Section 3. Section 15-8-201, MCA, is amended to read:**

**"15-8-201. General assessment day.** (1) The department shall, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

(a) motor vehicles;

(b) motor homes, travel trailers, and campers;

(c) watercraft;

(d) livestock;

(e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate;

(f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

(g) property subject to the provisions of 15-16-203.

~~(6) Credits must be assessed as provided in 15-1-101(1)(f)."~~

**Section 4.** Section 15-8-404, MCA, is amended to read:

**"15-8-404. Property of particular types of firms.** (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his the business is carried on.

(2) The personal property of express, transportation, and stage companies must be listed and assessed in the county, town, or district where ~~such~~ the property is usually kept.

(3) The personal property ~~and franchises~~ of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

**Section 5.** Section 15-8-405, MCA, is amended to read:

**"15-8-405. Street railroads, bridges, and ferries.** Street railroads, ~~and~~ bridges, and ferries ~~and their franchises~~ owned by persons or corporations must be listed and assessed in the county, town, or district where ~~such~~ the property or any portion ~~thereof~~ of the property is located, ~~and the~~ The track of the railroad and the bridge are personal property."

**Section 6.** Section 15-8-406, MCA, is amended to read:

**"15-8-406. Assessment of public utilities in one county.** Railroads operated or situated in one county; telegraph, telephone, and electric light lines and similar properties situated in one county ~~and their franchises~~; and canals, ditches, and flumes situated in one county ~~and the franchises of the same~~ must be listed and assessed in the county in which ~~such~~ the property is located, ~~and the~~ The department of ~~revenue must~~ shall require the owner of ~~such~~ the property or ~~his~~ the owner's agent or any officer of a

corporation owning the ~~same~~ the property to make a verified statement containing a list of the number of miles ~~such on which the~~ property is operated or situated in the county and the value ~~thereof~~ of the property."

Section 7. Section 15-8-407, MCA, is amended to read:

"15-8-407. Railroads ~~and other franchises~~. (1) The ~~franchise~~, roadway, roadbed, rails, rolling stock, and all other operating property of ~~all railroads~~ a railroad operated in more than one county or more than one state must be assessed by the department of revenue as ~~hereinafter~~ provided in Title 15, chapter 23, part 2.

~~(2) Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business."~~

Section 8. Section 15-23-101, MCA, is amended to read:

"15-23-101. Properties centrally assessed. The department of revenue shall centrally assess each year:

(1) the ~~franchise~~, roadway, roadbeds, rails, rolling stock, and all other operating property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, ~~{not including rural electric cooperatives}~~;

(3) all property of scheduled airlines;

(4) the net proceeds of mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."

**Section 9.** Section 15-23-202, MCA, is amended to read:

"15-23-202. **Assessment -- how made.** (1) The department ~~must~~ shall assess the ~~franchise,~~ roadway, roadbed, rails, rolling stock, and all other operating properties of ~~all railroads~~ a railroad operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using ~~the same~~ it. Assessment must be made to the person owning or leasing or using the ~~same~~ rolling stock and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by ~~such a person, except as above provided, shall~~ must be assessed by the department.

(2) In determining the taxable value of railroad property, the department shall determine the percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

**Section 10.** Section 15-23-303, MCA, is amended to read:

"15-23-303. **Assessment of property -- apportionment to counties.** The department ~~must~~ shall assess all ~~the properties~~ property described in 15-23-301, but franchises ~~granted by the United States~~ must may not be assessed. The value of ~~such properties~~ property for assessment purposes ~~shall~~ must be determined upon ~~such factors as~~ that the department considers proper."

**Section 11. Repealer.** Section 15-8-403, MCA, is repealed.

**Section 12. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

**Section 13. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 14. Effective date -- applicability.** [This act] is effective on passage and approval and [sections 1 through 7 and 11 through 13] apply to property tax years beginning after December 31, 1999. [Sections 8, 9, and 10] apply to property tax years beginning after December 31, 2002.

- END -